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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 15 November 1999

# Journal des débats (Hansard)

Lundi 15 novembre 1999

Standing committee on  
justice and social policy

Organization

Comité permanent de la  
justice et des affaires sociales

Organisation

Chair: Joseph N. Tascona  
Clerk: Susan Sourial

Président : Joseph N. Tascona  
Greffière : Susan Sourial





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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 15 November 1999

*The committee met at 1540 in room 151.*

## ELECTION OF CHAIR

**Clerk of the Committee (Ms Susan Sourial):** I'd like to call this meeting to order. Honourable members, it's my duty to call upon you to elect a Chair. Are there any nominations?

**Mr Peter Kormos (Niagara Centre):** I nominate Lyn McLeod.

**Clerk of the Committee:** Mr Kormos has nominated Mrs McLeod.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** Thank you very much, Mr Kormos, but I'm not sure that as one of only two members of the caucus on this committee I can take on the chairmanship. You would not want to have my vote removed from the deliberations of this committee, I'm sure.

**Mr Kormos:** One, two, three, four, five. No, I think not.

**Clerk of the Committee:** Any further nominations?

**Mr Carl DeFaria (Mississauga East):** Madam Clerk, I would like to nominate Joe Tascona.

**Clerk of the Committee:** Mr DeFaria has nominated Mr Tascona. Are there any further nominations? Seeing none, I declare Mr Tascona elected Chair.

## ELECTION OF VICE-CHAIR

**The Chair (Mr Joseph N. Tascona):** Honourable members, it's my duty to call upon you to elect a Vice-Chair. Are there any nominations?

**Mr Kormos:** I nominate Brenda Elliott.

**Mrs Brenda Elliott (Guelph-Wellington):** I thank you for your kind offer, but respectfully I'll decline.

**Mr Kormos:** It's seven, eight grand a year. It's not peanuts.

**The Chair:** Are there any further nominations?

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Mr Chair, it's my pleasure to nominate Mr Carl DeFaria for the position of Vice-Chair.

**The Chair:** Are there any further nominations? There being no further nominations, I declare the nominations closed and Mr DeFaria elected Vice-Chair of the committee.

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 15 novembre 1999

## APPOINTMENT OF SUBCOMMITTEE

**The Chair:** We have a motion to appoint the subcommittee on committee business. This is a motion by Mr Beaubien. Did you want to move the motion?

**Mr Beaubien:** Certainly, Mr Chair. I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; that the subcommittee be composed of the following members: Mr Joe Tascona, Chair, Ms Brenda Elliott, Mr Peter Kormos and Ms Lyn McLeod; and that any member may designate a substitute member on the subcommittee who is of the same recognized party.

**The Chair:** All those in favour of the motion? The motion is carried.

Members will know that the House has referred to this committee Bill 9, An Act respecting the cost of checking the police records of individuals who may work for certain non-profit service agencies. May I suggest that a meeting of the subcommittee on committee business be convened to consider the method of proceeding on this bill, and once the subcommittee has made recommendations they will be presented to this full committee for approval. Is that agreeable?

**Mr Kormos:** Chair, I suggest that the subcommittee might meet tomorrow at 3:30.

**The Chair:** That's fine with me.

**Mr Kormos:** The only reason I say that is I know what I want. If the government members are prepared to put forth on the subcommittee with their proposals vis-à-vis this bill, fine, rather than do something that's going to be overruled.

**The Chair:** Mrs McLeod, are you available?

**Mrs McLeod:** Either myself or Mr Bryant, I am sure, could attend.

**The Chair:** Mrs Elliott?

**Mrs Elliott:** It's OK with me.

**The Chair:** That's fine with me. Room 151 at 3:30 tomorrow.

Is there any other business?

**Mrs McLeod:** Before the full committee adjourns and is left to simply deliberate through the subcommittee in



terms of business that comes before the committee, I'd like to have some discussion about the new role of the committee on justice and social policy. I think both the standing committee on social development and the standing committee on justice in the past have played very important roles in deliberating issues of social policy and justice policy.

I believe that we are more limited. As I understand it, there is no further opportunity for members of the opposition, or individual members of the committee, to bring forward proposals for business that this committee can carry out. Or is there some opening for us to do that even without the 125 resolutions that we used to be able to bring forward?

**The Chair:** I believe that standing rule 127 would allow any member to bring forth business for this committee to consider, if you want to review that.

**Mrs McLeod:** Is this under the old standing orders or under the revised standing orders?

**The Chair:** Revised.

**Mrs McLeod:** If I could have some clarification of that, just so that we know exactly what we can bring forward to the committee. Section 127 now, is that similar to the old section 125 or is it more limited in terms of what can be brought forward?

**The Chair:** From what I understand it's standing order 124. I can read that to you:

"124(a) Once in each session, for consideration in that session, each member of a committee set out in standing order 105(a) or (b) may propose that the committee study and report on a matter or matters relating to the mandate, management, organization or operation of the ministries and offices which are assigned to the committee, as well as the agencies, boards and commissions reporting to such ministries and offices.

"(b) Notice of a motion by a member under this standing order shall be filed with the clerk of the committee not less than 24 hours before the member intends to move it in a meeting of the committee. The clerk of the committee shall distribute a copy of the motion to the members of the committee as soon as it is received. Whenever a motion under this standing order is being considered in a committee, discussion of the motion shall not exceed 30 minutes, at the expiry of which the Chair shall put every question necessary to dispose of the motion and any amendments thereto.

"(c) The proposal of a member for study and report must be adopted by at least two-thirds of the members of the committee, excluding the Chair. Such study in the committee shall not take precedence over consideration of a government public bill.

"(d) Following its consideration of such a matter, the committee may present a substantive report to the House and may adopt the text of a draft bill on the subject matter. Where the text of a draft bill is adopted by the committee, it shall be an instruction to the Chair to introduce such bill in his or her name.

"(e) There shall be not less than one sessional day, or three hours, of debate in the House on such a bill, to take

place at a time or times allotted by agreement of the House leaders of the recognized parties."

**Mrs McLeod:** That was if the bill passes committee by majority that it would have to go the House for debate?

**The Chair:** Yes, excluding the Chair. I can get you a copy of this.

**Mrs McLeod:** Thank you. I'd appreciate it. I apologize for not knowing this in detail before coming to the committee. My reason for raising it this afternoon is to know how such motions can be brought forward.

So on 24 hours' notice there would be a motion to the clerk of the committee that this was to be brought forward at the next meeting of the committee. Can a motion of this nature go to a subcommittee so that the committee could be called in order to have a discussion on a topic of concern to social or justice policy? In other words, can the committee only meet when there is a piece of government legislation before it?

**The Chair:** Certainly the subcommittee can meet to discuss matters. But the language of this—you may want to study this with respect to any particular questions you have on it—does say "the committee." You can have a copy of that and it will give you a better idea. It does read, "Notice of a motion by a member under this standing order shall be filed with the clerk of the committee not less than 24 hours before the member intends to move it in a meeting of the committee," which suggests there is a meeting that's been scheduled.

1550

**Mrs McLeod:** In any event, the maximum length of debate on such a motion would be 30 minutes, and I assume introduction of a bill would be 30 minutes as well.

**The Chair:** It reads, "Whenever a motion under this standing order is being considered in a committee, discussion of the motion"—if you're just discussing the motion—"shall not exceed 30 minutes, at the expiry of which the Chair shall put every question necessary to dispose of the motion and any amendments thereto." The 30 minutes are on that motion, and the proposal has to be adopted by two thirds of the members of the committee.

**Mrs McLeod:** A proposal for further study and report, then.

**The Chair:** A proposal of a member for study and report.

**Mrs McLeod:** So any motion that we bring forward should be to propose study and report back to the committee on an issue. Then we'd have a 30-minute discussion, and if it was passed by a two-thirds majority—it seems highly doubtful, but should it be—then it could go out for committee study as used to be done under a 125.

**The Chair:** As long as it doesn't take precedence over consideration of a government public bill. That's the caveat.

**Mrs McLeod:** The alternative would be to present a bill, which would then be deliberated again for 30



minutes and debated, and a resolution then to present the bill in the House would be put before the committee?

**The Chair:** A bill similar to Bill 9 that we were just dealing with?

**Mrs McLeod:** Or a private member's bill.

**The Chair:** Yes. I think Mr Kormos's private member's bill was passed in the House and it was referred by him to this committee. That's why it's before us.

**Mrs McLeod:** Can we originate bills in this committee? Can we refer a bill to the House from the committee? That's the way I understood the reading of that section.

**The Chair:** Yes.

**Mrs McLeod:** My reason for raising this is that I do want to put on record my personal concern and the concern of my caucus in the further limitations that have been placed on the ability of opposition parties, or indeed members of the government party, to bring forward what we, as independent, elected members of this Legislature, consider concerns and to have a full deliberation on them.

The process under the section 125, as you know, would have allowed study and report at the request of members, to a limited number of days per session, but at least an opportunity for members to bring forward issues that they felt needed to be debated and to have study and report done. That ability to require that has now been taken away because, as you've said, we need two-thirds support of the committee in order to have a study and report done.

I really hope the committee members share the concern I'm expressing that there needs to be some forum for each member of the Legislative Assembly to have due consideration given of an issue which is not necessarily a priority issue for the government, or may indeed be an issue that the government is not anxious to have debated. I really believe that unless this committee is prepared to exercise its ability under this new section to have some study and report of issues that aren't on the government's official agenda, we will really have set the democratic process back in this place significantly. I put that on record and make that request at the first organizational meeting of this committee.

**The Chair:** What's that last part you're referring to for the subcommittee?

**Mrs McLeod:** It's not really a reference to the subcommittee, Mr Chair. It's really an appeal to all members of the committee to realize the ways in which the rules of committee have been changed under this new section and to attempt to at least keep some avenues open for members to bring forward issues that aren't officially on the government's agenda.

**The Chair:** I understand.

**Mr Beaubien:** Mr Chair, for some clarification, I'm certainly not too familiar with the rules of the standing committee, but it is my understanding that the changes in the rules on the standing committee procedure were initiated by the three parties, by the three House leaders. There was debate. Am I correct in that?

**The Chair:** I wasn't involved. I understand there was a meeting of the three parties.

**Mr Beaubien:** Well, that's my understanding. If that was the procedure that was agreed to by the three parties, I fail to see the point of the member on the opposite side. I share her concern. On the other hand, you know, the chicken has already been hatched. It should have been brought up long before this day. It should have been discussed with your House leader at that point in time.

**Mrs McLeod:** There was considerable discussion, and I think there's some considerable concern about the loss of our ability to bring forward issues under section 125. As you will know, there was negotiation of changes in the House rules along with a number of other issues that were on the table at the same time. In a negotiation you win some and you lose some, and from our perspective, the loss of the section 125 was indeed a loss. Our House leader considered that to be a loss at the time and presented that at the negotiating table.

The compromise, then, was the one that has just been read out to the committee which was the new—I didn't have the section—section 124, which puts it in the hands of the committee as to whether or not issues that aren't matters of government business in terms of legislation can be deliberated by this committee.

**Mr Beaubien:** So then we all agree that there was a compromise; there was negotiation between the three parties. I think that's a very key point to this whole discussion, because it was not unilaterally done by anybody.

**Mrs McLeod:** Again, the proposal to eliminate the section 125 was certainly brought forward by the government House leader. It would not have been brought forward by the opposition parties.

I'm not suggesting that we can go back and change the standing rules again. I've been around long enough to know that standing rules get put in place and get constantly changed and there's very little hope of unchanging them. But what this has done—the compromise that was reached by all three party leaders then provided the committee itself, through a two-thirds vote, with an ability to deliberate on issues that are seen to be issues of public concern. My request to the committee is that we take that seriously as being a continued way of opening the floor for discussion in this committee, for discussion of issues of concern.

**The Chair:** That's duly noted.

**Mrs Elliott:** Just on a small point of clarification, there was some confusion at the beginning as to where a presentation for a motion of introduction of a bill or consideration of a bill would be given. Just for clarification, it would have to be given to the committee as a whole, not to the subcommittee. Correct?

**The Chair:** That's correct.

If anyone wants a copy of that standing order 124, if they don't already have it, we'll provide a copy.

**Mrs McLeod:** I appreciate that. Thank you, Mr Chairman.

**The Chair:** Anything more? OK, this committee is adjourned.

*The committee adjourned at 1558.*



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#### Chair / Président

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford PC)

#### Vice-Chair / Vice-Président

Mr Carl DeFaria (Mississauga East / -Est PC)

Mr Marcel Beaubien (Lambton-Kent-Middlesex PC)

Mr Michael Bryant (St Paul's L)

Mr Carl DeFaria (Mississauga East / -Est PC)

Mrs Brenda Elliott (Guelph-Wellington PC)

Mr Garry J. Guzzo (Ottawa West-Nepean / Ottawa-Ouest-Nepean PC)

Mr Peter Kormos (Niagara Centre / -Centre ND)

Mrs Lyn McLeod (Thunder Bay-Atikokan L)

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford PC)

#### Clerk / Greffière

Ms Susan Sourial

#### Staff / Personnel

Ms Elaine Campbell, research officer, Legislative Research Service

Mr Avrum Fenson, research officer, Legislative Research Service



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Tuesday 23 November 1999

**Journal  
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(Hansard)**

Mardi 23 novembre 1999

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Clerk: Susan SourialPrésident : Joseph N. Tascona  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Tuesday 23 November 1999

*The committee met at 1542 in room 151.*

## COMMITTEE BUSINESS

**The Chair (Mr Joseph N. Tascona):** I will bring the meeting to order. The subcommittee has met on two bills, Bill 8 and Bill 9. Anyone from the government?

**Mr Gerry Martiniuk (Cambridge):** Before dealing with the subcommittee reports, I'd like to make a motion.

I move that, for the purposes of the selection of witnesses for public hearings before this committee, in the absence of unanimous agreement in the subcommittee, the subcommittee or Chair/clerk, upon delegation, shall select witnesses proposed by the caucuses in the following rotation: government, official opposition, third party, government, official opposition, government, official opposition, third party, government, official opposition and continuing in that rotation as subject to witness availability.

**The Chair:** Before we get to that—

**Mr Peter Kormos (Niagara Centre):** Point of order, Chair.

**The Chair:** One second.

**Mr Kormos:** No, no. I have a point of order.

**The Chair:** Just one moment. We're going to have a reference point for that motion and we have two subcommittee reports. Mr Kormos.

**Mr Kormos:** I think I know what Mr Martiniuk is trying to do, but the committee has convened today, and primarily the purpose of the agenda of the committee is to ratify the subcommittee reports. I would put to you that this motion is out of order until the committee has dealt with its primary business, which is the ratification of the two subcommittee reports before the committee. I'd submit that the motion is improperly put at this time. It could be properly put at another time, but at this time the first matter of the agenda or the purpose of this committee meeting is to consider the subcommittee reports and that's the business we should be attending to.

**The Chair:** Would you care to comment on that, Mr Martiniuk?

**Mr Martiniuk:** Yes. I was not aware that we even had an agenda for this particular committee meeting. I was properly recognized. I had the floor. I have proposed an amendment which deals with the procedure to be followed by the subcommittee and Chair. That is in my

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
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opinion an in-order motion. I would ask for a seconder, and I don't think the point of order has any validity.

**The Chair:** You don't need a seconder.

**Mr Michael Bryant (St Paul's):** I have another point of order, Mr Chair: My concern is that this motion is going to amend the standing orders, and of course we can't, as a subcommittee, amend the standing orders. Accordingly, I think this matter ought to go to the House leaders for deliberation.

**The Chair:** Do you want to be specific about which standing order is being amended?

**Mr Bryant:** I'm looking for the order.

**The Chair:** I don't think it does.

**Mr Kormos:** Point of order: You've now got two points of order before you and, with respect, I submit you have to deal with the first point of order. You've got to deal with points of order as they—

**The Chair:** I realize that. I just thought he was speaking and he's come up with another one.

**Mr Kormos:** OK, fair enough.

**The Chair:** The motion is in order, but the committee has two subcommittee reports to deal with. We can defer dealing with the motion until we deal with the subcommittee reports or we can deal with the motion right now.

**Mr Kormos:** I move deferral.

**Mr Bryant:** I support the deferral.

**Mr Martiniuk:** I have a proper motion before this committee, Mr Chair. The second point of order I would like the opportunity of course to deal with. You've already disposed of the first point of order. I think it's a matter of hearing from both sides regarding the point of order. I would oppose any deferral. I don't see any reason for a deferral. We're here in any event.

**The Chair:** The purpose would be to deal with the subcommittee business and then deal with the motion.

**Mr Martiniuk:** But this motion, being an overall general motion, would automatically affect the subcommittee reports and any future subcommittee report. I would have thought as a matter of principle that it should have been dealt with first so that we could clarify in advance what the subcommittee report does in fact say.

**The Chair:** Perhaps what we'll deal with right here is, Mr Bryant had a point of order in terms of the motion itself. Do you have anything to say, Mr Bryant?

**Mr Bryant:** Sure. Number one, Mr Martiniuk seems to have just conceded that a finding on this particular motion would affect other committees and thereby



change the standing orders and, in so doing, would be amending the standing orders.

**The Chair:** But I asked you before what standing order was being changed.

**Mr Bryant:** Sure, that's number one. Number two, I would turn to the clerk for assistance here. The problem here is that this motion is being thrust upon us with no notice.

**The Chair:** I think you had some notice in our subcommittee. Do you want some assistance from the clerk on your point of order?

**Mr Bryant:** Yes. My question is just: Are we not, by virtue of this motion—and Mr Martiniuk has said he wishes to bind other committees—creating a standing order?

**Mr Martiniuk:** Excuse me. I rarely object, but I'm not concerned about other committees. It would bind this committee, yes, not other committees.

**The Chair:** From the advice I have from the clerk, it's not changing the standing orders. It just affects the way the committee decides.

**Mr Bryant:** In no way would it be creating—

**The Chair:** The standing order? No. That's my advice from the clerk, if that's what you're looking for. Does that satisfy you on your point of order?

**Mr Bryant:** No. Again, I'd like a deferral so I could take time to go through the standing orders. But if you have ruled that we're going to deal with it now, all I can do is register my objection that we're flying by the seat of our pants on this motion.

**The Chair:** If you've got a point of order, you have to argue it. The thing is, you don't have a standing order that is being affected. The clerk tells you that it's—

**Mr Bryant:** I appreciate that.

**The Chair:**—being changed.

**Mr Bryant:** You have my submission on this.

**The Chair:** The standing orders aren't being affected.

**Mr Kormos:** On a point of order, Mr Chair: I want to be quite candid. Mr Martiniuk told us approximately an hour ago that he was going to produce this. I agree with the Chair that there are no standing orders as such which govern the process within a committee.

As recently as last week or a week and a half ago, the Speaker ruled that the committee has control of its own process. However, the committee is subject to the Legislature; that is, the Legislature can overrule what the committee determines in terms of process or virtually anything else, obviously.

First, this committee knows—and if they don't, I'll tell them—that it has been a long-standing precedent, a long-standing practice in this and all committees of this Legislature over the course of the three governments I've been here with, from 1987 to 1990, from 1990 to 1995, from 1995 to 1999, and now, when both the Liberals, the New Democrats and now the Conservatives held power, with varying degrees of majorities and sizes of respective opposition parties. There has always been, because of the fact that the committee—to a certain extent it's intended to override the very partisan nature of the House. This is

where the public has access. This is where—and it speaks to the intent of this committee's purpose—there's hopefully a freer flow of ideas and debate, where there's less restraint by party whip or policy dictates and where the committee can consider input from the public and make deliberations regarding a particular piece of legislation or amendment to it. I think that's a healthy thing.

Part of that precedent and the practice for a long, long time, far longer than the 11 years I've been here, has been that irrespective of the number of members on the government side of the committee, or the official opposition or the third party side—and as I say, I've seen this in every combination that could possibly exist in the period of that 11 years—there has always been the practice that there be some equity between the three parties. It has always been the case that the government has a majority. Clearly, the government can use its majority to defeat any motion or amendment, or to win any motion or amendment, to a bill.

During the course of the hearings themselves—and here with reference to nomination or submission of witnesses or delegations before the committee—the practice has been that government, the official opposition and the third party rotate. There are occasions when the selection of submitters is left entirely to the discretion of the clerk, when the clerk is relied upon. In issues where there isn't a polarization of views, from time to time the clerk is relied upon to use his or her discretion to select submitters and try to create some evenness or fairness in the nature of presentations. But when it's purely a matter of selecting, submitting or sponsoring delegations, witnesses or submitters to the committee, it's always been the practice that each party be entitled to select one. In the committee that oversees appointments to boards, agencies and commissions, as I understand it, it is still the practice that each party is entitled to nominate equal numbers of people to appear before that committee. I just give that to you for your reference. In the committee that reviews nominees for appointment to boards, agencies and commissions, notwithstanding the present structure of the House—the majority of the Conservatives, the significant size of the Liberals as the official opposition and the admittedly diminished size of the NDP.

The House has in fact ruled on this to a certain extent by virtue of acknowledging the NDP as an official party, by giving the NDP official party status. Before, as you know, the threshold was 12, and never before has the size of the third party or of the official opposition been determinative.

With the assistance of Ms Charlton, I point out to the Chair the content of the standing order 1, referring to conduct of business:

“Contingencies unprovided for:

“(c) In all contingencies not provided for in the standing orders,” and I acknowledge this is the scenario here, “the question shall be decided by the Speaker or Chair, and in making the ruling the Speaker or Chair shall base the decision on the democratic rights of members referred to in clause (b).” I'll refer to that in just a

minute, but this is what's most important: "In doing so the Speaker shall have regard to any applicable usages and precedents of the Legislature and parliamentary tradition."

That's why I specifically point out to you the precedent in this committee and in all other standing committees of this Legislature, regardless of the relative size of the respective caucuses: government, official opposition and third party.

It makes reference to clause (b), and without reading the whole of clause (b), you'll note that the matters to consider are "the right of members ... to submit motions, resolutions and bills." This is not a case where the NDP, for instance, would be asking to submit motions, bills or resolutions, but just imagine for a minute if it were. The analogy of this motion would be that I as the NDP member would have a fettered right to submit, let's say, amendments. The analogy would be that I would be able to submit fewer amendments, that I wouldn't have an unfettered right to submit amendments like the Conservative members—the government members—or the Liberal members.

Secondly, "to debate, speak to and vote on motions, resolutions and bills"; thirdly, most importantly, "to hold the government accountable for its policies," and I think equally important, "collectively, to decide matters submitted to the assembly or a committee."

I think the Chair should also refer to definitions because clearly in this standing order "Recognized Party" means a party caucus of eight or more members of the Legislative Assembly," and that's clearly what the NDP is. That matter has been resolved. I submit to you that the Chair has to be guided by this standing order, and, where the standing order is inadequate, by analogy, but certainly the consideration of applicable uses and precedents. It has always been the case in committee that when you have multi-party presentation of delegations, each party is entitled to an equal number—you basically go round robin, if you will—in terms of presenting delegates to the committee.

Look at it this way: Assuming for a moment that both opposition parties are *ad idem*—obviously that's not always the case, but assuming that in terms of the types of submitters to a bill both opposition parties are inclined to present the same type of opposition voices, in terms of witnesses or in terms of delegations, it's always been the case that the government has had one, let's say, pro-bill delegation, assuming it was that tight and precise, and between the two opposition parties there have been two to counter it. That's always been the case. But the countervailing power is the government majority. The government members have never in any number of years talked about that as being somehow inequitable. That's been an acknowledged right of respective parties. As it ends up, oftentimes the two opposition parties—heck, I've got to tell you, in 1987-90, when the Tories were the third party and the NDP were the official opposition, I sat on this side of committee hearings and, as often as not, the Conservatives and I or the New Democrats would be

presenting the same or similar opposition, in that case, to a Liberal bill.

1600

**The Chair:** Mr Kormos, we dealt with the fact that the motion is in order and then Mr Bryant indicated that he had his point of order with respect to would the standing orders cover it, and I said the standing orders were not being amended. I'm just trying to clarify what area you are covering now.

**Mr Kormos:** I'm raising a point of order specifically with reference to the standing orders.

**The Chair:** With respect to standing order 1.

**Mr Kormos:** Quite right, and what you must consider in determining whether or not this is in order.

**The Chair:** Yes, but I've determined that the motion is in order.

**Mr Kormos:** Yes, you determined it's in order with respect to my first point, with respect to the second point. I've raised yet a third point of order. So it may be in order with respect to the first point that I raised, but I'm submitting that it's not in order with respect to the point that I've raised now.

**The Chair:** I think I understand your argument, if you're finished on it.

**Mr Kormos:** No.

**The Chair:** OK. But I do understand you're talking about 1(c).

**Mr Kormos:** Yes, I'm talking about 1(c), but I'm also talking about why the Chair should be considering 1(c) and why he should be applying it to this motion to find it out of order.

**The Chair:** I understand that.

**Mr Kormos:** Yes, quite. I'm trying to point out to the Chair that there's nothing new about the scenario as it exists. There are two recognized parties constituting the official opposition and the third party. Nothing has changed from before the election of 1999. Even though the standing order has never stated that each party is entitled to submit a delegation or present a delegation to make submissions, I'm submitting to you that the long-standing precedent and the long-standing tradition, regardless of the size of an opposition party, whether it was the Conservatives in opposition, the New Democrats or the Liberals, in this committee as well as all other standing committees, has permitted each caucus when they've done round-robin types of presentations of delegates to present or submit a delegation.

So although there is no standing order governing this, there is precedent. My submission is that in view of the fact that there's precedent which acquires the status of standing order, this motion then is out of order because it's for the House to change that. And further, the reason I refer to paragraph (b) is because that is the rationale for that precedent, "respects the democratic rights of members," and democratic rights certainly have to be rights that are equal.

You could say by virtue of this motion I would still have a right to present delegations to the committee, but how democratic is it to suggest that I can present fewer



than, let's say, another caucus? In this case, it's the Liberals and the Conservatives. I submit that there could well be three views, three perspectives on this bill that the government's trying to avoid ganging up, if that's their argument. I say to you that there could be three perspectives.

If I'm being told that I can't present as many delegates as, let's say, the Liberals or the Conservatives can—and I'm not suggesting the Liberals should be entitled to fewer delegates—then the perspective of this recognized party isn't going to be heard at the committee and this long-standing usage and precedent is going to be violated.

The motion can't be considered at this committee. If it's going to be made, it has to be done in the Legislature. It is a violation—not a violation but it is in effect an amendment to the standing orders, which can only be done by the Legislature. It goes well beyond the committee determining its own process.

On that matter, it's a done deal because precedent and usage of decades and decades and decades have set the rule for this committee.

**The Chair:** I understand that, but I still believe that the motion is in order. We're dealing with how the committee conducts its business. When you read the motion as it is, that's strictly what it's dealing with. I've read the sections that you're referring to and I certainly think we are dealing with it in a democratic process here in terms of how we're going to deal with this if there's not unanimous agreement in terms of how we proceed with respect to how this committee conducts its business. So the motion is in order. Are there any other points of order?

**Mr Kormos:** Point of order: The rules provide for a process for a committee, and I suggest that clearly there's a process. There's a role for the subcommittee and then reference of a subcommittee decision to the committee. With respect, there's nothing in the rules that permits circumventing or restricting or abbreviating the power of the subcommittee.

What this does is attack the ability or capacity of the subcommittee to make decisions because this means that no subcommittee could ever recommend to the committee that each caucus would be entitled to one delegation in order, in rotation. By virtue of doing that, this attacks the very essence of the rules as they describe the power of subcommittee and then the subsequent power of committee.

That's not to say that committee can't amend a subcommittee report. I'd be hard-pressed to say it would be out of order if, upon movement or motion of one of the subcommittee reports, Mr Martiniuk then said we disagree with the manner of proposing delegations in the subcommittee report and move to amend that report. That would be a different story. But for Mr Martiniuk to try to create rules of procedure for the committee that will bind the committee forever and ever is well beyond the power of the committee. It's one thing to move an amendment to a subcommittee report, but here he's trying to create standing rules or standing orders for the committee and

the standing orders don't provide, with respect, for standing orders for the committee. You've got to do it piecemeal. You've got to do it one at a time. You can't create an order that acts as a standing order and leave it at that.

**The Chair:** I understand that, but the motion is still in order. I think you've moved to defer the motion. That's the motion on the floor right now, to defer the motion until after we deal with the subcommittee reports.

**Mr Kormos:** Quite right, but first I challenge the Chair on his ruling with respect to that point of order. There has to be a vote on the matter of the challenge to the Chair.

**The Chair:** I just want to explain to the members here that Mr Kormos is challenging my ruling with respect to whether the motion is in order or not, and I've indicated that the motion is in order. If a member of the committee appeals the Chair's ruling, the question is, shall the Chair's ruling be appealed to the Speaker, and that should be put to the members without debate. So can we have a vote on that?

**Mr Martiniuk:** What's the question?

**The Chair:** The question is all those in favour of the Chair's ruling being appealed to the Speaker? Those opposed? The appeal is lost.

We'll proceed on the deferral motion. That's Mr Kormos's motion to defer the motion that's in front of us till we deal with the subcommittee reports. All those in favour of that.

**Mr Kormos:** Recorded vote, please.

**The Chair:** Everyone understands?

Those in favour of deferring the motion?

#### Ayes

Bryant, Crozier, Kormos.

**The Chair:** Those opposed?

#### Nays

DeFaria, Guzzo, Martiniuk, Mazzilli.

**The Chair:** The motion to defer is lost.

On the motion, those opposed to the motion?

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**Mr Kormos:** Point of order, Chair: We haven't had debate on the motion yet. Please, let's pretend to have a democratic process here.

**The Chair:** That's for your privilege.

**Mr Kormos:** No, it's for the Chair to call for debate.

**The Chair:** I just called for it. Do you want a debate?

**Mr Kormos:** After I reminded you. The mover should debate first.

**Mr Martiniuk:** Do I have the floor?

**The Chair:** Yes.

**Mr Kormos:** I'm trying to help the Chair as much as I can.

**Mr Martiniuk:** I guess one thing that has changed—Mr Kormos talks about tradition—is that he and others in his party have taken what was a grand old party to a very small number. They have found great disfavour with the public. However, that's not what we're here to discuss.

I am suggesting that it's entirely appropriate for the committee to give its direction to the subcommittee on how the subcommittee should conduct its decisions, particularly where there's a lack of consensus among the committee members.

In Ontario, subcommittees exist at the direction and discretion of the committee. They are regularly asked to assist in the scheduling of government business. According to standing order 123, the subcommittee is the body directed "to report to the committee on the business of the committee." The subcommittee's typical role here in Ontario is to make organizational decisions for that committee. In that context, it is appropriate that the committee be able to give direction to the subcommittee on what considerations to apply when making the necessary organizational decisions.

As occurs from time to time, the committee can overturn a subcommittee report. That is because the subcommittee exists at the pleasure of the committee and ultimately subject to the committee's will, just as the committee is ultimately subject to the will of the House.

As Erskine May states on page 659 of the 22nd Edition: "Committees have been empowered ... to appoint subcommittees for any purpose within their order of reference." This includes giving directions to consider various subjects, to take evidence from experts, to write reports and conduct hearings in various locations.

Just so, the committee may give any number of directions to its subcommittees, including a directive on how to pursue the selection of witnesses. This is made quite explicit on page 660 of Erskine May where it states, "Though committees with power to appoint subcommittees cannot confer on such subcommittees powers in excess of those which the House has authorized, they may nevertheless make orders regulating the transaction of business by their subcommittees."

This surely includes a direction on how to deal with lack of consensus among subcommittee members in the selection of witnesses.

The House passed a directive governing its own practices to better reflect the proportionality of the caucuses. Just as the House may pass such a directive for its own practices, so too may the committee pass a motion governing the proportionality of its own practices as reflected in the activities of the subcommittee.

A look at the Canadian House of Commons reveals that their committees have a mechanism in place to ensure some degree of proportionality in the selection of witnesses. As Beauchesne makes clear on page 236 of the 6th Edition, only the federal committees and their subcommittees may make decisions as to which witnesses may be called. This provides the federal committees with full proportionality in the witness selection process. Furthermore, the federal committees ensure that

all of their subcommittees also reflect the proportions of the full committee.

As section 790 of Beauchesne states, "The membership"—of subcommittees—"is in the same numerical proportion to that of political parties represented in the committee."

This is something we could and should pursue in Ontario to ensure that our subcommittees make their decisions in a manner which represents the voices of the full committee, or can we put in place a motion like the one I'm proposing today, which simply directs the subcommittee on how to conduct itself where its members fail to reach a consensus? The committee is not telling the subcommittee who to select as witnesses, simply what procedure to follow when agreement cannot be reached.

The government has four members on this committee, the Liberals have two members and the NDP has only one. In terms of witness selection, if the current motion is adopted, the NDP would still have input on at least 20% of the selections despite having less than 10% of the elected seats in the Legislature.

**Mr Garry J. Guzzo (Ottawa West-Nepean):** That's generous.

**Mr Martiniuk:** I thought it was very generous. Therefore, the proposed rotation is still weighted in favour of the NDP. This is the same rotation that the House adopted for itself in rotation of debates and by all measures appears to be working well in that form.

The precedent from the federal House of Commons is quite clear. In his ruling of January 12, 1971, Speaker Lamoureux stated that the standing committee is "free to adopt whatever procedure it may deem appropriate in the circumstances for the calling of witnesses, including, if it so wishes, a procedure different from that suggested in the committee clerk's letter. All that is required is an appropriate motion carried by a majority of its members."

Mr Chair, what I am proposing today is within the rules governing this committee. It conforms with the precedents here in Ontario and in other jurisdictions and, above all, it is a fairer practice that will better reflect the membership of this committee as we proceed to public hearings in this Parliament.

**Mr Kormos:** Obviously speaking in opposition to this—and I can assure Mr Martiniuk that he didn't have to remind me that the New Democrats only elected nine. Indeed, during the course of the election I saw the polls and I was concerned, but then eventually relieved at the outcome. I was concerned that we might reach the point the federal Conservatives did in—what was it?—1993 when they elected but two members to the federal House of Commons. In that case, we've done over four times as well as the federal Conservatives did in the election of 1993.

I don't take any comfort from the fact that we have only nine members, but at the end of the day I don't deny it; nor do I not accept the reality that people in this province elected Conservatives in sufficient numbers to form a majority government and, again, similarly elected Lib-



erals in more than sufficient numbers to form the official opposition. I respect that because, quite frankly, I respect democracy.

I appreciate the reference that the federal House of Commons process was utilized many times during various stages of what really wasn't a debate over the most recent rule changes which resulted in, among other things, the New Democrats acquiring official party status.

Firstly, let's understand that the federal Parliament has in excess of 300 members. It's a huge number of members and therefore the rules that govern question period, that govern debate in the federal Parliament necessarily must be somewhat more restrictive because of the huge numbers of people. In fact, it's over three times as large as the provincial Legislature and in theory then would take three times as long to implement a particular legislative process, a motion, if the debate were unrestrained.

Now that's not to say that I am pleased about the so-called proportionality standards that were used in determining the new order period and debate in the Legislature or the new order period in question period. I should indicate they were matters that were imposed upon the NDP. It certainly wasn't the New Democrats' suggestion that they be restricted in the course of debate or restricted in the course of question period. It was the price we had to pay and a price we paid knowingly to obtain official party status.

We move then from the House to committee. In 1988, as a newly elected member, as I'm sure most newly—and I had the good fortune, quite frankly, to be elected to an opposition caucus. I say that because in the government of 1987, the Liberal government, there was a huge number of Liberals elected who were neophytes, who had never been in opposition. In 1990, there was a huge number of New Democrats, neophytes, at least to Parliament, who had never been in opposition, and in 1995, a huge number of Conservatives, neophytes, who had never been in opposition.

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All three of those parliaments, and I say this very conscious of what I'm saying—the Liberal government of 1987, the NDP government of 1990 and the Conservative government of 1995, and it appears to be following suit again in 1999, because those who were reelected have never enjoyed the experience of opposition and those that were newly elected, of course, as Conservatives similarly never enjoyed the experience of opposition. All three of those governments—Liberal, New Democrat and Conservative—displayed from time to time and, unfortunately, as the years progressed, increasingly so, incredible levels of arrogance. They demonstrated incredible disdain for the opposition. They just couldn't understand why opposition members were doing what they were doing. They were extremely frustrated by it. I have no doubt about that.

To be fair, in the Liberal government of 1987 to 1990, those government members who had before 1985 served in opposition—many of them are still with the caucus—had a far more balanced view about the opposition and

understood what opposition was doing and understood, as I believe I and other members who have served in opposition do, that opposition is critical to good government. Quite frankly, a government is only as good as the opposition that is present.

I find this particular motion to be yet another illustration of that incredible arrogance, the abuse of power and disdain for opposition. It is quite frankly, amongst other things, incapable of being compared to any rules that might be adopted in the provincial Legislature, in the House, that are designed to facilitate the flow of debate.

Notwithstanding that, let's understand that the rule changes that have occurred vis-à-vis the standing orders and the rules of the House through the course of 1987 through 1990 through 1995 and now, once again, in 1999 have been tremendous. There's been a tremendous and dramatic shift in the rules of this Legislature.

I've got to confess that when the Liberal government of 1987 to 1990 proposed rule changes which in comparison, historically, seem relatively modest, I was shocked and concerned back then. I voted against those rule changes that restricted opposition members' rights. The New Democrats again imposed rule changes that further restricted the rights of the opposition. Those very same people who were elected, neophytes, didn't understand what opposition members were doing or why they were doing it and they felt so affronted. My goodness, their egos, such tiny little egos, were challenged by the fact that opposition members would dare protest a piece of legislation or object to a bill or object to the introduction of a bill or the timing of the bill in terms of orders of the day. They just didn't get it.

Rule changes occurred again, and I voted against those rule changes. Similarly, I voted against rule changes that occurred after the government of 1995, which were undoubtedly prompted by the megacity debate and the tactics, the undeniable tactics, that were used by opposition members to draw attention to the megacity debate.

Why do opposition parties feel compelled to do this? Why are they obligated to do this?

One of the concerns that all of us should have about this Legislature is that the use of new rules, the implementation of new standards which increasingly restrict the role of opposition members and, quite frankly, denigrate the role of individual members, denigrate the role of so-called "backbenchers"—because at the end of the day it's backbenchers of all three caucuses, including government caucuses, who are impacted—is designed to facilitate the passage of legislation, and not just to speed up legislation, but to accelerate it at the speed of light. The rationale for this is that the faster you get it done and over with, the less public attention it attracts, the less opportunity the press or any of the media have to present it to the public, the less informed the public is and the less resistance there is out there in communities to the legislation.

As a matter of fact, it's rather strange that I would adopt the reasoning of one Sir Karl Popper, the British philosopher and mathematician, who was a very conser-



vative fellow, I must say, and who died recently. Popper's theory of refutation is an extremely valid one and one which all of us should take heed of when we present arguments or propositions. His position was that when you test a theory, you test it by trying to refute it, by subjecting it to criticism. Can it withstand this criticism? Can it withstand these objections etc?

My concern about a government that wants to grease legislation up and slide it through is that maybe the legislation doesn't withstand scrutiny, maybe the legislation doesn't withstand the public overseeing or overruling it.

If the argument could be made that we have such a harried legislative agenda for the fall of 1999, it should be heard. The fact is that as of a week ago this Legislature sat all of—what was it?—three and a half weeks in a whole year. In a period of a whole 12 months, this Legislature sat some three and a half—maybe by now it's up to four—weeks. That reveals to me that there isn't much of a legislative agenda at all. In fact it appears that there's relatively little on the government plate that has a sense of urgency to it, if anything has a sense of urgency to it.

You know, or you ought to know, and my experience here tells me, that delay actions by the opposition are all but eliminated. Trust me. I look for them on a daily basis. I would seize upon any opportunity I could if there were loopholes or angles, as such, in the rules that would permit usage of procedural motions or what have you for the purpose of mere delay.

I don't understand why the committee would want to restrict the number or type of submissions that are made to it. This committee has the capacity to be the most democratic element of government or parliamentary process, because this is the process whereby the public comes here, ranging from lay people from neighbourhoods that we all live in, just plain folks, all the way up to professors and experts and consultants and lobby groups and, I suppose, special interest groups. This is their chance to come forward and express views on proposed legislation and to suggest what its impact is going to be on them or upon their neighbours or upon colleagues. That seems to me to make this committee perhaps the most important part of anything that occurs within this legislative precinct.

At the end of the day the government always has the majority in the committee. The government can ensure that its motions or amendments are passed, can ensure that opposition motions or amendments fail. The government wields the majority. It is rare that there is a government member with sufficient courage to vote contrary to how they're whipped. I've had occasion from time to time to talk to government members who acknowledge that they don't believe in what they're voting for but are voting that way because they've been whipped into voting that way. It's a sad acknowledgment. It requires a little bit of courage on the part of a government member and some small amount of sacrifice, because it means you're subject to punishment. The sacrifice is a monetary one, because I know how whip-

ping occurs. The leverage that's used is that you lose your Vice-Chair job, your committee Chair job, your deputy whip, your parliamentary assistant, the whole nine yards. These of course raise MPPs' salaries, from the base salary of \$78,000, by \$4,000 and change and on up to I think \$10,000, \$11,000, \$12,000, depending on which position you hold.

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It's unfortunate that that is the primary motivator. I would understand fidelity as a stronger motivator than literally hard, cold cash, especially when at the end of the day even a PA's additional salary—what is it, \$12,000 or so?—in the total scheme of things isn't a whole lot of money. It is a lot of money, but it isn't in the total scheme of things, when you talk about compromising what you believe in to retain that PA position. That's one of the things I've found perhaps saddest about my 11 years here. I am intimate with all of the tactics that a caucus and its whips and its leader and its executive and its members can utilize to try to whip a member into shape. Trust me. I'm very intimate with every single one of them, but I carry my scars with some pride. I'll concede that, yes, I know well what it means to be demoted from one level down to another down to another so there's nowhere left to demote you to. I understand that. But the real test is if you can maintain your integrity and do what undoubtedly every one of us felt compelled to do when elected as members, that great pride that any of us have.

I speak to Mr Mazzilli, who's newly elected. He's in a privileged position. Only 103 Ontarians have the chance to do what he's doing at any given point in time. I say that to him. He's a Conservative, but I have regard for him irrespective of the fact that we probably disagree philosophically on so many issues. He's one of but 103 Ontarians out of 11 million who are privileged to represent their communities, their constituencies here at Queen's Park. It's an incredible honour. It's an incredible trust. I suppose the decision to be made—because it doesn't take long to realize what the pressures are.

I'm convinced—and I've said this in so many places so many times—that people of all party stripes come here full of vim and vinegar, ready to do things differently from the way their predecessors had done them. They weren't going to be like the rest. They were going to be bolder, they were going to be more outspoken, they weren't going to be co-opted by the system here. I'm confident that's true for Conservatives, Liberals and New Democrats.

I've also witnessed the metamorphosis that occurs, as often as not within hours, if not mere days, once all the perks start getting dangled, once the pressure to fraternize, to belong to the group develops. It's difficult sometimes being a minority of one. There are some people sitting on the government side of this committee now who know what sort of pressures can be put on them, what sort of downright bullying sometimes can be utilized to try to whip them into shape.

There are some members on the government side who I suspect have been subjected to the efforts to whip them



into shape, whip them into line, "Tone down on this issue; keep it quiet; play this down; don't raise that," and who have similarly said: "No, go pound salt. I'm here to do a job. There's something I believe in and I'm going to do it."

I found it interesting when I was a government backbencher to see my colleagues sitting on the government side of committee. Some of them had been in opposition. I found it interesting but I also found it tragically humiliating and embarrassing, because I saw them conduct themselves, once they were in power, with a sense of arrogance that I had never suspected of them, that was seemingly newborn, that I had never thought they could ever possess, an absence of humility and a hubris, which, as we all know, is a very dangerous thing.

I think there might be some opportunity to resolve this. I would request the committee's consent for a five-minute recess, please, at this time while reserving my right to maintain the floor.

**The Chair:** You have three minutes more to speak.

**Mr Kormos:** But I am asking for a five-minute recess.

**The Chair:** Is there unanimous consent for a five-minute recess?

**Mr Frank Mazzilli (London-Fanshawe):** No.

**The Chair:** No, there is not. You can continue.

**Mr Kormos:** Thank you. I will, then, advise my Liberal counterparts that if one of them were to leave the room, the remaining Liberal, with respect to this issue, may request an adjournment prior to the vote of up to 20 minutes, as of right, and that will facilitate a recess. I see the Chair is going to utilize the time restraints on my speaking to this motion. I would ask my Liberal colleagues, if they're so inclined, to utilize that right. It would be necessary for one of them to be absent from the room, because the purpose of the recess, of course, is to seek out one's colleague prior to a vote, and I suspect that a vote is going to be imposed upon us very shortly.

I am very disappointed in what has gone on today. I thought the committee was a place where backbenchers could have a little more authority and role and where there would be a little broader-based exchange of views and perhaps some more lively debate about an issue than is permitted in the House. It appears that the government members do not share my view in that regard. I find that disappointing, but I also say this: They were elected to power in 1995; they were elected to power in 1999; the very nature of the beast indicates that at some point some of them are going to be in opposition. They will then have an opportunity to reflect on what they've done to the rules here and to reflect on whether or not it was worth it as they try to perform their very important roles and fulfill their obligations to their membership or to their constituencies when they're but members of the opposition.

I'm obviously voting against this motion. I think this is not a matter for committee to decide. The House leaders went through a lengthy negotiation process. Quite frankly, if this were going to be developed as a principle or as a rule, it should have been part of the subject matter

of the House leaders' process when they discussed House rules, when various concessions were made by the opposition parties, especially the New Democrats, to arrive at what we have now, with New Democrats having official party status.

I've become increasingly concerned about the committee. There are only two days to discuss this bill; only one day and a couple of hours to hear submissions from witnesses. At the end of the day, there aren't going to be that many, in any event. Most of the public isn't even going to be aware that the bill is passed, yet at the end of the day people are going to be imprisoned or risk imprisonment as a result of this legislation. That's what makes the bill so tremendously important.

I know the government arguments, and, quite frankly, I'm prepared to let them make them; and I have counter-arguments. But this bill is one that has the capacity to put people in jail. That makes it, in my view, a very important piece of legislation. This bill has the capacity to deprive people of their liberty in a supposedly democratic country and province. That means that it should bear the closest scrutiny, and the government is denying that close scrutiny by this motion.

**The Chair:** Any further debate?

**Mr Bruce Crozier (Essex):** Something has arisen. I know Mr Bryant was expecting to discuss this motion, so I do have to ask for a 20-minute adjournment at this time.

**The Chair:** We'd have to put the question first.

**Mr Crozier:** Oh, when you put the question?

**The Chair:** There's no further debate.

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**Mr Crozier:** OK. Well, I'll continue to debate. I'll have my say, and if he's not back, I'll have to do that if the question is put. Sorry.

I am not arguing, in my view, so much the content of the motion but back to what some of the discussion was when we were considering whether the motion in fact was in order. I would vote against this motion because I honestly think it's something that should be dealt with by the House leaders. Before a legislative session starts, there's a great deal, I am told, of negotiation that goes on between the three parties. Perhaps this year, this session, there was more discussion than would normally take place, because there was a dramatic change in the representation of one of the parties.

For example, and I doubt that it's a coincidence, this motion would seem to me, in its content, to very much mirror the order of questions in question period. I don't know whether it's exactly that way, but it appears to me to mirror that in content. That was the result of negotiation among the three parties. Statements are no longer given in the House in the same order, and I acknowledge that, similar to how this proposes to change the rotation, if you like. But that too was done through negotiation that took in probably a number of other areas of the overall operation of government and the opposition parties.

The rotation of debate in the Legislature is different than it used to be. The three House leaders, I assume, sat down and came to this conclusion. Mr Martiniuk may be

able to correct me if I'm wrong, but I don't get the impression that there was any negotiation or consultation among the three parties in this case.

It seems to me to be setting a very dangerous precedent when the committee goes to the extent that this motion goes. In fact, there may be other submissions on what the rotation should be, but I'm not arguing those merits. I just think this is a very important issue, one that goes, yes, to the traditions of the House, where there are certain decisions that are first discussed by the House leaders as a group.

If Mr Martiniuk so chooses, I would like to know if in fact the House leaders have discussed this in one of their House leaders' meetings. If they have not, then I know I have to vote against this because I honestly think, and personally believe, that this is an issue that should be discussed by the three House leaders, and then that direction can be brought back to this committee and we can vote that way. I don't see where it would do any harm. I think it would add to the importance of this motion if the three House leaders had an opportunity to discuss it as part of those overall negotiations that go on through this Legislature.

I will now defer to my colleague, if he so chooses.

**Mr Bryant:** I'm going to be brief because most of my points have been covered by Mr Crozier. I just wish to say that if we had had sufficient notice of this motion, our position might have been more informed and there might have been an opportunity for the House leaders to discuss this among themselves and perhaps either an amendment of the motion, which might have been agreeable to the government, or support from the official opposition or from the third party might have been forthcoming. But as a result of this, there was not time to do that.

We have rules governing this committee which require that if somebody substitutes for another member, half an hour notice has to be given for that substitution. That's in order that the order of the committee is preserved. Surely the same decorum and conventions and notice periods ought to be provided at least with respect to providing a best effort at giving enough notice for motions of this sort.

This is a matter which, I am pleased to hear from the Chair, does not amend a standing order. It is a motion which is in no way going to bind any other committee. It does come close to standing order 111(a). It doesn't amend it or affect it, I agree, but it clearly is in the nature of that standing order and as such ought to have been discussed among the House leaders and not been forced upon this committee.

As a result, because of the process and because of the lack of notice and because of the failure to direct this to the House leaders and follow the convention that has been followed to date among those House leaders, I will be opposing the motion. That's all I have to say.

**The Chair:** Seeing there is no further debate, I'll put the question.

**Mr Kormos:** Recorded vote, please.

## Ayes

DeFaria, Guzzo, Martiniuk, Mazzilli.

## Nays

Bryant, Crozier, Kormos.

**The Chair:** The motion is passed.

## SUBCOMMITTEE REPORTS

**The Chair:** As the next order of business of the standing committee on justice and social policy, we have a subcommittee report on business. This has to do with Bill 8. I can read it or the committee can ask me to dispense.

**Mr Kormos:** Mr Chair, if I may. No, I'll not say anything at this point.

**The Chair:** Does someone want to read this into the record?

**Mr Martiniuk:** "Your subcommittee on committee business met on Tuesday, November 23, 1999, and recommends the following with respect to Bill 8, An Act to promote safety in Ontario by prohibiting aggressive solicitation, solicitation of persons in certain places and disposal of dangerous things in certain places, and to amend the Highway Traffic Act to regulate certain activities on roadways, 1999.

"(1) That the committee meet for the purpose of conducting public hearings on Monday, November 29, 1999, from 3:30 pm to 6 pm.

"(2) That witnesses be allotted 10, 15, 20 minutes, depending on the number of requests received.

"(3) That interested people who wish to be considered to make an oral presentation on Bill 8 should contact the committee clerk by 5 pm on Thursday, November 25, 1999.

"(4) That the committee will post information regarding the hearings on the Ontario Parliamentary Channel.

"(5) That the deadline for written submissions be 5 pm, Monday, November 29, 1999.

"(6) That amendments be tabled with the clerk of the committee by 12 noon, Tuesday, November 30, 1999.

"(7) That the subcommittee authorize the clerk in consultation with the Chair of the committee to schedule witnesses from the names of members of the public who contacted the Clerk's office directly and to make all arrangements necessary for public hearings.

"(8) That the committee meet on November 30, 1999, from 3:30 pm to 6 pm for clause-by-clause consideration of the bill.

"(9) That at the beginning of clause-by-clause, each caucus be allowed 20 minutes for statements; however, should the committee meeting start late, the remaining time until 4:30 pm will be distributed equally. The rotation will commence with the government, followed by the official opposition and then the third party."

**The Chair:** Any debate on this?



**Mr Kormos:** I'm going to move an amendment. I move that paragraph 7 be deleted.

1650

**The Chair:** Is there any debate on the amendment?

**Mr Martiniuk:** I don't understand the reasoning. Perhaps Mr Kormos would favour me with his reasoning? I'm asking the question. I don't understand why that should be deleted. Nothing we've done to date would affect the meaning of that clause 7 that was agreed to in the subcommittee.

**The Chair:** Mr Kormos, do you care to respond?

**Mr Kormos:** No, thank you.

**Mr Martiniuk:** We'll be opposing that amendment.

**The Chair:** No further debate on the motion?

**Mr Kormos:** I moved an amendment.

**The Chair:** That's what I'm dealing with. Is there any more debate on the amendment? No further debate?

On the amendment to the motion, all those in favour of the amendment, which is to delete paragraph 7?

**Mr Kormos:** Recorded vote, please.

#### Ayes

Bryant, Kormos.

#### Nays

DeFaria, Guzzo, Martiniuk, Mazzilli.

**The Chair:** The motion to amend is lost.

On the standing committee motion as read, is there any further debate?

**Mr Kormos:** Of course, I feel compelled to speak to this in a way that I wouldn't have otherwise.

I was present at the subcommittee, of course. I was present along with Mr Martiniuk, who spoke for, I'm confident, the government, and with the member capably there for the official opposition.

I appreciate it was a time allocation motion. I simply want to remind the committee before it approves this that this bill was introduced, underwent literally a few hours of debate in the Legislature. It's not a lengthy bill, but what it does is to empower not only arrest but imprisonment. It creates new offences. At this point I'm not going to argue whether or not those new offences are justified, but the mere fact that it does that, that it creates new offences, in my view makes it worthy of serious consideration.

I was pleased today to read in the paper that the federal government, for instance, in an omnibus justice bill, responded to the issue of the cruelty-to-animals sentencing provisions and in this package amends various sections to permit judges to impose more extensive sentences, something the provincial Legislature discussed a couple of weeks ago in private members' business. Dr Galt, a Conservative member, in private members' business had the support of all three caucuses.

So it doesn't amend an existing statute which has already established the criminality of certain types of be-

haviour. It defines new offences. That means it's a watermark sort of point. Again, the consequences for violation include not just fines but also imprisonment. For the life of me, I couldn't think of any consideration by any Parliament of the creation of new offences which subject people to arrest and imprisonment upon conviction that had received such short shrift by way of debate as this does.

Although the bill is modest in terms of its length, you're talking about extremely important things, and whether or not the objectives are laudable is aside from the point that you've got a provincial statute here pursuant to which people could go to jail and conceivably will go to jail. For that to be the subject matter of debate in the Parliament for but a few hours, I find to be incredibly irresponsible.

The government knows I don't agree with it on the bill. That's not the point. We received short shrift in debate, and I appreciate that the committee has no power to override the time allocation motion, but let's make it very clear that it wasn't the subcommittee that decided that this will be the subject matter of but two days of committee discussion. It was the time allocation motion which killed debate on it in the House, and what that means is that but a handful of people are going to be able to make submissions on this.

Because of the short time frame—take a look at that. The bill has to be reported back, apparently, by December 3, which means that the only two possible dates that it can be heard in committee are next Monday and Tuesday. Advertising of that can only take place commencing, let's say, tomorrow on the legislative broadcast channel.

It was futile for the subcommittee to even consider the prospect of advertising across the province so that members of all communities across the province would have an opportunity to at least make written submissions, because this will be subjected to but four or five days of even legislative broadcast advertising.

This is a bill that the government would argue is not criminalizing any behaviour, because of course the government doesn't have the jurisdiction. The provincial government doesn't have that jurisdiction, does it, to create criminal offences? But nonetheless, let me be generous. That creates quasi-criminal offences in that they are offences which can subject the individual to arrest and imprisonment—arrest, detention and imprisonment, I should put more precisely—and its public hearing process is going to consist of but one afternoon and maybe an hour or two the subsequent day of submissions. Those submissions are going to be incredibly restrictive.

This committee is going to have lost the opportunity to hear from any number of people who may support or oppose the bill, but also any number of people who may have things to say about the bill such as its constitutionality. I'm only here as a representative of the people of Niagara Centre but far be it from me to suggest that challenges about the constitutionality of this bill might prevail because it does invade federal jurisdiction. It's

already been suggested by way of press commentary by lawyers that that certainly would be a target.

I'm concerned that this committee isn't going to have a chance to hear from the relevant cross section of community members who are perhaps concerned about the ills or the conduct this bill is designed to restrain or prevent or prohibit, or about the impact of the bill on our downtowns, let's say, or about the enforceability of the bill or whether or not this bill will require an allocation of policing resources that in any way does justice to the community.

We've obviously got neighbourhoods here in the city of Toronto, where just a few days ago, it's clear, a young man could be beaten to his death in full view of members of the public, and here's a bill designed to allocate police resources to squeegee kids and/or panhandlers, beggars and/or people who throw away their condoms in public places—used condoms only, mind you, not new ones. Surely this committee might want to hear from members of the public who have concern about the fact that a rapist could terrorize Scarborough over a period of weeks. The police, notwithstanding all of the limited resources available to them, found themselves frustrated as they tried to track down this perpetrator and women felt themselves vulnerable day after day, night after night.

1700

Surely this committee might want to hear from people who would express concern that the bill is going to call upon police forces to use their resources to put panhandlers under surveillance so that the offence can be detected or to put persons who use condoms publicly under surveillance of one sort or another, to find out whether in fact they're disposing of those used condoms—first of all, I guess they have to determine whether or not the condoms are used and whether they're disposing of them in an inappropriate manner—or street drug users who would shoot up on the street and throw away their syringe, again in places to which the public has access. You've got no quarrel from me about that sort of stuff being beyond objectionable and annoying, and in the case of syringes certainly downright dangerous, but there might be some commentary from any number of people out there in this huge province about the effectiveness of this bill, that it's truly dealing with the issue.

I'm not going to deny that there are areas in this community, and perhaps others, where neighbourhoods find themselves encumbered or plagued by syringes disposed of in places that their kids or other members of the public have access, or they slip-slide on their way to work as they step on used condoms. Again, I haven't encountered any, but I haven't gone looking. Obviously other people have. The Attorney General went looking and we're told he found one. Whether the mine was salted or not, I'm not about to suggest that, but I can't for the life of me think of what civil servant or member of that minister's bureaucracy or political staff would have been called upon to salt the mines that the minister's photo op could be more effective than it would have been had he gone

searching through an alleyway without stumbling upon a new or used syringe. I don't know whether the press reports included the used condom or not.

I find it incredible that a community in northern Toronto, in the Finch area, is clearly terrorized after the death of a young man by the perpetrators of that public beating death. Chair, you've read the press reports. You understand what happened just a few days ago. A young man was beaten to death, not shot from a distance. The reports indicate that a young man was beaten to death, pummelled to death by one or more people in public within the sight and in the presence of any number of other people. I can't imagine what could be more frightening to a community than to know that that has taken place, or more tragic to an individual and/or their family. I'm confident that Toronto cops are doing everything they can to track down the perpetrators of that crime and to make sure that charges are laid and that due process follows.

But, my God, we've then got an Attorney General downtown doing photo ops with squeegee kids and panhandlers, and there are people being murdered. I don't understand the proportionality there. I don't understand the obsession with squeegee kids and panhandlers when clearly there are huge collections of neighbourhoods, communities living in fear of violence. We read of swarmings and swarming-purse-snatching types of incidents and we're telling cops, "Go out there and bust yourself a squeegee kid today." I don't understand the lack of perspective that's contained in this bill.

If squeegee kids are annoying—and, look, I happen not to find them annoying. I understand that other people do, and I don't object, I don't challenge other people when they say they find it annoying. But, Lord, to be confronted by a squeegee kid who says, "Squeegee your window, mister?" is a far cry from being attacked in a public place and being beaten to death, literally, with fists and weapons and boots. I think there are people in the community who in response to this bill might want to raise that very point.

Some government members have from time to time expressed concern—and I, quite frankly, don't disagree with them and I'll carry that concern one further—about how so often it seems—at least the press publicizes them, and that's why they're publicized, because they're the notorious cases—that crimes, let's say, of incredible violence result in modest or seemingly modest sentences or sentences that are abbreviated or interrupted by early release or parole boards or what have you.

We've got drug traffickers out there. We've got pimps out there. We've got in this city alone, and you know it, the phenomenon of contemporary slavery, where women are brought here from other countries—Russia appears to be one of the countries, East Asian countries—many of them young women, and some we've discovered from what the press reported as young as 14 and 15 years old, and are held effectively in slavery while they're forced to dance in erotic clubs, and I have no doubt prostitution is part and parcel. We've got pimps like that out there who



should be targeted and hit hard for long jail sentences. Yet we aren't saving the cells for those pimps, we aren't telling police to get out there and giving the police the resources to go out there and shut down the pimping that goes on or the drug trafficking that goes on or the swarming that goes on or the home invasions that go on. This bill is telling cops to go out there and bust a squeegee kid, go out there and observe a panhandler to see if he or she might be drunk or stoned such that they violate the terms or the provisions of the bill.

**Mr Carl DeFaria (Mississauga East):** On a point of order, Mr Chair: I thought we were just reviewing the submissions from the subcommittee and not debating the bill. My friend seems to be going into the bill.

**The Chair:** He's got a couple of minutes left.

**Mr Kormos:** How many minutes, Chair?

**The Chair:** Three minutes.

**Mr Kormos:** It's always three minutes, isn't it? My timing is impeccable.

I think you get my drift, as it is in this case, gentlemen on the committee. I find it incredibly unfortunate that we're restricted by the time allocation motion. I think we're doing the public a disservice, I think we're doing the cops a disservice and, quite frankly, I think we're doing this Legislature a disservice.

Having said that, I acknowledge the committee has no choice but to submit itself to these time restrictions. I have no hesitation—and the committee has no power. That's exactly what I said: The committee is subject to the House. Other people didn't agree with me about that earlier. The committee has no power. I wish that Mr Martiniuk were here to move a motion to say, no, the committee can control its own process, to heck with the time allocation motion. But he's not making that motion right now. His sense of autonomy has dissipated and disappeared.

That having been said and done, I'll be supporting the report, but only under what I consider some peculiar duress.

**The Chair:** Thank you, Mr Kormos. Are you finished?

Anyone else? Any further debate on the motion? No further debate. I put the question: All those in favour of the subcommittee report motion? The motion is carried.

The next order of business is the subcommittee motion on Bill 9. Mr Kormos, would you like to read that into the record?

1710

**Mr Kormos:** I move, pursuant to the subcommittee report on committee business which flows from a subcommittee on committee business meeting of Thursday, November 18, 1999, with respect to Bill 9, the Police Records Checks by Non-profit Agencies Act:

(1) That the committee meet for the purpose of conducting public hearings on Monday, December 6, 1999, from 3:30 pm to 6 pm and on Tuesday, December 7, 1999, from 3:30 pm to 5 pm.

(2) That witnesses be allotted 10, 15 or 20 minutes depending on the number of requests received.

(3) That interested people who wish to be considered to make an oral presentation on Bill 9 should contact the committee clerk by 5 pm on Thursday, December 2, 1999.

(4) That the committee will post information regarding the hearings on the Ontario Parliamentary Channel.

(5) That the deadline for written submissions be 5 pm, Friday, December 3, 1999.

(6) That amendments be tabled with the clerk of the committee at the earlier of (a) submissions being completed or (b) 5 pm, Tuesday, December 7, 1999.

(7) That the subcommittee authorize the clerk in consultation with the Chair of the committee to schedule witnesses from the names of members of the public who contacted the Clerk's office directly, and to make all arrangements necessary for public hearings.

(8) That the committee meet on December 7, 1999, following public hearings for clause-by-clause consideration of the bill.

(9) That at the beginning of clause-by-clause, each caucus be allowed five minutes for opening statements if they wish.

**The Chair:** Any debate on this motion?

**Mr Mazzilli:** I move an amendment to part 2: "That witnesses be allotted 10, 15 or 20 minutes depending on the number of requests received, and that time be allocated equally among the stakeholders, example, volunteer organizations and police services or police services boards."

**The Chair:** I just want to understand this amendment. Paragraph 2 currently reads, "That witnesses be allotted 10, 15 or 20 minutes depending on the number of requests received." Are you adding, "and that time be shared equally by stakeholders, example, volunteer organizations, police services or police services boards"?

**Mr Mazzilli:** That's correct, the intent being that all stakeholders be allowed to split the time to give evidence to the committee, or how this may or may not impact their organization.

**The Chair:** I understand the motion to amend paragraph 2 is: "That witnesses be allotted 10, 15 or 20 minutes depending on the number of requests received, and that time be shared equally by stakeholders, example, volunteer organizations, police services or police services boards."

**Mr Mazzilli:** That's correct.

**The Chair:** Do you want to speak on that?

**Mr Mazzilli:** As I brought out at the subcommittee meeting, I think it's important for the subcommittee to hear from different stakeholders and that time be allotted or equally split among them. There are generally two groups that I suspect would be impacted by this bill—at least two—and that would be volunteer organizations, police services or police services boards and perhaps municipalities, but police services boards generally do have representation on that. Those are my points on that, and I ask that that amendment be carried.

**Mr Kormos:** I'm prepared to adopt that into my motion, subject to the wording being, "that positions be

allocated equally among stakeholders; for example, volunteer agencies, police services boards," and leave it at that. I say "for example" because I suggest to Mr Mazzilli that taxpayers are stakeholders, and where would you classify them? They aren't so easily slotted.

You and I talked about this at subcommittee. Mr Mazzilli is adding something, and I am adopting it as part of my motion, basically reflecting something we talked about at the subcommittee. I acknowledge that, but I say "for example" because it's not restricted to. Taxpayers are stakeholders here as well. If Jane Smith or John Doe wants to come forward as a taxpayer—they're neither a volunteer agency nor a police services board, yet they're very much a stakeholder. I suspect that in your suggestion—this is what I'm getting from you. You and I have never had a problem communicating yet. What I'm getting from you is that you're saying you want fairness. You want equal representation of all stakeholders.

I submit to you that we have to leave some discretion to the clerk. We talked about this in subcommittee. That means that should taxpayers come forward, they are yet a third stakeholder distinct from either police services boards, Big Brothers, Big Sisters or other volunteer agencies, which is what we had in mind. You couldn't object to that, could you?

**Mr Mazzilli:** Mr Chair, I will object to that. Taxpayers are certainly a group out there, but police services are taxpayers and volunteer organizations and volunteers are taxpayers. In my submission, what Mr Kormos has proposed is covered within the umbrella of police services and volunteers or volunteer organizations.

**The Chair:** I understand that. I'll just ask you for a clarification. Mr Kormos, have you got a further amendment to his amendment or are we going to leave it as is?

**Mr Kormos:** No, I don't have to go through an amendment here. I'm prepared to adopt his language in the motion, but let's make it quite clear. We're trying to create fairness. Surely you're not calling for anything more than fairness. You don't want this to be stacked, do you? You want simple fairness. What more could any of us request? Is that right, Mr Mazzilli?

**Mr Mazzilli:** That's correct, and that's why I've agreed to a 50-50, equally split time among the stakeholders. It's important to get both—

**Mr Kormos:** Fairness, fairness.

**The Chair:** I think I understand that Mr Kormos—

**Mr Kormos:** Right, Mr Mazzilli?

**The Chair:** —can support your amendment, because it is an amendment to the motion we have on the floor.

Mr Bryant.

**Mr Bryant:** Since we're delving into the minutiae of the wording of this, I presume that you're not trying to restrict this to two categories of stakeholders, in which case should we not say after the word "stakeholders," "including but not restricted to" the stakeholders you have just mentioned?

**Mr Mazzilli:** The two groups I mentioned are probably the stakeholders most affected by this piece of legislation, but certainly not restricted to them.

**Mr Bryant:** Fine.

**The Chair:** Do you have—

**Mr Bryant:** No, no.

**The Chair:** It is just an interpretation issue?

**Mr Bryant:** As long as the Chair and all parties agree on what we're trying to get at, fine.

**The Chair:** We're just dealing with the amendment at this time.

**Mr Bryant:** OK.

**The Chair:** Just a clarification: Paragraph 7 indicates, "That the subcommittee authorize the clerk in consultation with the Chair of the committee to schedule witnesses from the names of members of the public who contacted the Clerk's office directly, and to make all arrangements necessary for public hearings." In the event that we are not contacted by one of the two groups—for example, if the volunteer organizations don't contact us—we're obviously not going to be able to share the time equally. I'm looking for some direction on that.

**Mr Mazzilli:** If the committee or subcommittee was not contacted by any groups that wanted to be represented, then the time would not have to be shared equally.

**The Chair:** I think you're going to deal with the specific language to that. Mr Kormos.

**Mr Kormos:** Please, Mr Mazzilli, something like fairness is just a simple proposition. What we're talking about is that the clerk should make every effort to ensure that the interests of police services boards as compared to the interests of volunteer agencies are represented equally, or as equally as possible.

**Mr Mazzilli:** That's right.

**Mr Kormos:** That wasn't hard, was it? No. It wasn't hard, was it, Mr Mazzilli? It's fairness. Quite right, fairness.

**The Chair:** What's the end of your discussion?

**Mr Kormos:** Fairness. That the clerk make every effort, which means she has to base it on what's presented to her to provide equal representation.

**The Chair:** I'll add this—this may be the only way to deal with it. After the word "that," put in "if applicable." That's the only way I can see this working. Would you be agreeable to that?

**Mr Martiniuk:** Yes.

**The Chair:** So it would read, "That witnesses be allotted 10, 15 or 20 minutes depending on the number of requests received and that, if applicable, time be shared equally by stakeholders, example, volunteer organizations, public services or public services boards." Is that all right?

**Mr Mazzilli:** The word "applicable" applies on consent.

**The Chair:** I'm going to put the motion on the amendment. All those in favour? Carried.

The motion, as amended, all those in favour? Carried.

Seeing that there's no further business, the committee will adjourn until Monday, November 29, at 3:30 pm.

*The committee adjourned at 1722.*



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Mr Garry J. Guzzo (Ottawa West-Nepean / Ottawa-Ouest-Nepean PC)

Mr Peter Kormos (Niagara Centre / -Centre ND)

Mrs Lyn McLeod (Thunder Bay-Atikokan L)

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Mr Garfield Dunlop (Simcoe North / -Nord PC)

Mr Gerry Martiniuk (Cambridge PC)

Mr Frank Mazzilli (London-Fanshawe PC)

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## **Legislative Assembly of Ontario**

First Session, 37<sup>th</sup> Parliament

## **Assemblée législative de l'Ontario**

Première session, 37<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

**Monday 29 November 1999**

# **Journal des débats (Hansard)**

**Lundi 29 novembre 1999**

**Standing committee on  
justice and social policy**

**Safe Streets Act, 1999**

**Comité permanent de la  
justice et des affaires sociales**

**Loi de 1999 sur la sécurité  
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Chair: Joseph N. Tascona  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 29 November 1999

*The committee met at 1537 in room 151.*SAFE STREETS ACT, 1999  
LOI DE 1999 SUR LA SÉCURITÉ  
DANS LES RUES

Consideration of Bill 8, An Act to promote safety in Ontario by prohibiting aggressive solicitation, solicitation of persons in certain places and disposal of dangerous things in certain places, and to amend the Highway Traffic Act to regulate certain activities on roadways /  
Projet de loi 8, Loi visant à promouvoir la sécurité en Ontario en interdisant la sollicitation agressive, la sollicitation de personnes dans certains lieux et le rejet de choses dangereuses dans certains lieux, et modifiant le Code de la route afin de réglementer certaines activités sur la chaussée.

**The Chair (Mr Joseph N. Tascona):** I will bring the standing committee on justice and social policy to order.

CANADIAN CIVIL LIBERTIES  
ASSOCIATION

**The Chair:** Our first presenter is the Canadian Civil Liberties Association, Alan Borovoy, general counsel. Mr Borovoy, if you could come forward.

Members of the committee, if there is time left after each presentation, how would you like to proceed with respect to questions from each caucus?

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** Because the agenda shows us finishing with presenters by 5:20, although we are a little bit late starting, could I suggest that we have some leeway in the Chair to extend each of the presentations by approximately two minutes? It still wouldn't take us back to 6 o'clock even with the late start so that you can allow questions—

**The Chair:** That wasn't the question. I just would like to know—we're late now—what the rotation would be of the questions. Would you like yourself, the opposition, and then the NDP and the governing party to have equal time?

**Mrs McLeod:** We'd be comfortable with that, Mr Chair, but if I may—

**The Chair:** We're 10 minutes late now.

**Mrs McLeod:** Right. Mr Chair, if I may make a motion then. Since the opposition parties were both here on time to begin the presentations on time, I would like

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 29 novembre 1999

to recommend that we make up for the lateness in the government members attending and the committee hearing starting by extending the presentation time for the presenters so that there's no shortage of time for each of them.

**Mr Peter Kormos (Niagara Centre):** Agreed.

**The Chair:** I don't know if that's going to leave us enough time, to be honest with you. Our last presenter was scheduled for 5:20. Now it would be 5:30. We have 11 presenters, so we're going to be pretty tight. I'll put the motion forward.

**Mr Gerry Martiniuk (Cambridge):** I'm sorry, Mr Chairman. I don't know whether we can sit past 6 o'clock. The standing orders provide that we end at 6 o'clock unfortunately, and I don't think the motion is therefore proper. This committee cannot amend the standing orders, and we must rise at 6 o'clock.

**Mr Kormos:** Call the question.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Could you repeat the motion?

**The Chair:** The motion is to extend each presenter with two minutes to make presentations.

**Mrs McLeod:** Then is it possible, even with the late start for the committee, to give each presenter a full 10 minutes?

**Mr Kormos:** Call the question.

**The Chair:** We have another person who has requested to make a presentation, so we're going to have to live with what we have in terms of presenters if your motion goes through.

**Mrs McLeod:** I'll amend the motion then. I'll withdraw the motion and place a different motion, and that's that each presenter be given the full 10 minutes despite our late start so as we not curtail their time. They get the 10 minutes as recommended, even though it would take them a couple of minutes past the time that's shown for their presentation.

**The Chair:** We're going to proceed with what we've got scheduled here. You're withdrawing your motion. Maybe we can proceed now.

Mr Borovoy, if you could maybe introduce yourself. If you do have a written presentation, I'd say to any of the presenters, we'd appreciate getting that to the clerk.

**Mr Alan Borovoy:** I'm Alan Borovoy, general counsel of the Canadian Civil Liberties Association. On my right and your left is our associate counsel, Stephen McCammon, and on the right side of me is Andy



McDonald-Romano. I trust, Mr Chairman, that those introductions will not be deducted from my 10 minutes.

In view of the shortness of time, we have decided to limit our remarks to the panhandling part of the bill. This is not to say that the squeegeeing part is acceptable—it is not—but it is simply because the panhandling part lies more squarely within the mandate of the Canadian Civil Liberties Association.

The key civil liberty at issue is freedom of speech. In a democratic society this means the opportunity to appeal to members of the public to support our various causes and interests. It might mean asking for votes at election time, asking for signatures on a petition, asking for attendance at a meeting or asking for money for just about anything. Those with means, the more advantaged members of society, can use their wealth to extend their influence: They can importune decision-makers; they can advertise in the media. Those without means have to rely on what they can do by word of mouth, and it's for that reason that only the most compelling of social interests can justify infringing upon freedom of speech. It is hard to find such compelling interests in the bill that we're dealing with here.

Where it does address issues of genuine harm, it's probably already unlawful. It is likely unlawful, for example, to make threats, to threaten people with physical harm, to obstruct their movements or to follow them about in a persistent and harassing manner. I suggest that's already unlawful, though in principle we're not opposed to legislation of that kind. But as for the rest of it, why, for example, do we have this section saying you cannot solicit money from people at transit stops, telephone booths, taxi stands and the like?

In this connection, I'm reminded of a speech I heard many years ago when I was at law school. We had a speech from Thurgood Marshall, the first black justice of the United States Supreme Court. He was also the lawyer who had successfully argued the famous school desegregation case. He was telling us how time and again people he would talk to would invoke the spectre of intermarriage as though that were relevant to the issue before him and he said he had worked out a stock answer to it. He said, "If a black man proposes to your daughter, all she has to do is say no."

Similarly, may we suggest that if somebody solicits money from somebody at a taxi stand, a bus depot or wherever, all they have to do is say no. Remember, those who solicit will not be able to commit or threaten physical violence, they will not be able to obstruct their movements, and they will not be able to follow them about in a harassing fashion. So what are we worried about?

Moreover, I suggest that the definition of "soliciting" is so broad that it could catch almost any one of us. I don't think I've ever met anyone who hasn't run out of change at a telephone booth. Do we really want to make it unlawful for them to ask somebody for a quarter? I don't know if there are still any pay toilets in this province, but if there are, I would suggest that if anyone

really needs to use the facilities and finds themselves without money, it would be in the public interest for him to ask for change.

Can this bill stretch to a point that it can catch buskers in some subways or perhaps even the Salvation Army? What advice are we going to give to those selling Remembrance Day poppies and Boy Scout apples? They better beware that their enthusiasm does not lead them afoul of this bill.

When this bill was first introduced, I described it to a member of the press as mean and silly. I am quite prepared to repeat those adjectives here today and to add one more consideration: We believe that this bill is capable of making Ontario the target of widespread ridicule. For all these reasons, we suggest that the best way to dispose of this bill is to dispose of this bill. All of which is, as always, respectfully submitted.

**The Chair:** Any comments from the people who are with you, Mr Borovoy?

**Mr Borovoy:** Only if I have time in rebuttal.

**Mr Stephen McCammon:** We'll leave the time for questions.

**The Chair:** OK, thank you. We have about four minutes. This will be split between each caucus, so we start with the Liberals.

**Mr Michael Bryant (St Paul's):** Mr Borovoy, have you considered whether or not the provision on solicitation in effect just duplicates the Canadian Criminal Code provisions on assault, or do you think it widens them and, if so, does that mean that not only would there be a charter challenge, which you've suggested, but also a challenge on the basis under the Constitution Act, 1867?

**Mr Borovoy:** Sections 91 and 92. I'm not certain how far it would be subject to a legal challenge that way. Suffice it to say that they are very close to the offences in the Criminal Code. Constitutional considerations aside, from the standpoint of social policy, I can't fathom what point there is in basically putting into provincial legislation what already exists in the Criminal Code as far as these items are concerned. And that is, as I say, the only place where the panhandling part of the bill addresses potentially really harmful conduct. The rest of it isn't harmful at all.

**Mr Kormos:** Mr Borovoy, you raised the spectre of a person at a phone booth running out of change, a person in a charge washroom running out of change. Of course, our firefighters on Labour Day weekends when they're out there with their buckets raising money for good causes across the province would fall into that category.

That's what struck me, because my colleagues from my caucus and I today went out and squeegeed cars here in the Queen's Park parking lot at lunchtime. We were white, male, middle age, unfortunately, and middle class. I'm wondering if you've thought about the fact that it isn't really conduct here that's being prohibited or targeted, be it in panhandling or indeed squeegeeing. Is it the conduct that's being targeted or is it certain classes of people that are in fact being targeted?

**Mr Borovoy:** As far as the squeegeeing part is concerned, here too any genuinely harmful conduct caused by a squeegee is likely already unlawful. You can't obstruct cars on the roadway. You can't handle people's property in ways they don't want you to. That's already unlawful. Why then should we have a law that punishes all the others for the misdeeds of a few? I would suggest the proper balance is then to enforce the law against those who are violating it and leave the others alone.

**The Chair:** Thanks very much. That's about all the time we have with respect to the presentation, Mr Borovoy.

**Mr Borovoy:** None from the other side of the House, Mr Chair?

**The Chair:** I wanted to be generous with the other side because they were late.

**Mr Kormos:** I move that the Conservative caucus have three minutes in which to pose questions in view of the excess amount of time we have available to us today.

**The Chair:** We don't have excess available time.

**Mr Kormos:** I just made a motion, Chair.

**The Chair:** Those in favour of the motion, say "aye."

**Mr Martiniuk:** Excuse me. We have so many people to hear. We must rise at 6 o'clock because those are the rules of the House, and I am concerned that individuals would like to preclude the last few presenters from presenting their views before this committee. I think we must take all steps to oppose this to ensure—

**Mr Kormos:** I think we're paid well enough that we can sit past 6 o'clock.

**Mr Martiniuk:** Excuse me. Is that what the rules say?

**Mr Kormos:** I think we're paid well enough that we can sit past 6 o'clock if need be.

**Mr Martiniuk:** Well, you've never obeyed the rules before, Mr Kormos, so I can see you don't want to do it now.

**The Chair:** We've got a motion on the floor. Those in favour of the motion?

**Mr Kormos:** Recorded vote.

#### Ayes

Kormos, McLeod, Bryant.

#### Nays

Beaubien, Molinari, Martiniuk.

**The Chair:** The motion is lost. Let's proceed.  
*Interruption.*

**The Chair:** We'll have a five-minute recess.  
*The committee recessed from 1551 to 1554.*

### CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION

**The Chair:** The next group to present is the Centre for Equality Rights in Accommodation: John Fraser, program coordinator. I'd like to welcome you to the hearings. You have 10 minutes to make your presentation.

**Mr John Fraser:** Thank you, Mr Chair. My name is John Fraser. I'm the program coordinator with the Centre for Equality Rights in Accommodation. My co-worker here, A'Amer Ather, also works with the Centre for Equality Rights in Accommodation.

We're a provincial human rights organization that was set up about 12 years ago to help promote human rights protections for low-income households and to help low-income households enforce their human rights protections. We were very concerned when we saw Bill 8 and the contents of Bill 8.

I just have a brief presentation I'd like to make. In CERA's view, Bill 8 conforms with an emerging pattern of Canadian legislators to show less and less concern about alleviating poverty and much more interest in legislating poverty into invisibility. The hostility towards poor people that has manifested itself in unprecedented cuts to social assistance and social programs now manifests itself in an attempt to criminalize poverty and homelessness. In promoting a society which is marred by depths of poverty that we have not seen in a generation in Ontario at the same time as criminalizing the poor in an unprecedented manner, this government, in our view, is taking us back to the outlook of previous centuries.

Bill 8 has been drafted so as to try to avoid claims that it is discriminatory. It does not make it illegal to beg for money or to be homeless, but rather makes it illegal to solicit while intoxicated, for example, to solicit money from people waiting in line for public transit, or to solicit persistently. On its face, it does not discriminate against those who are poor or homeless. Theoretically, Conrad Black could be arrested for trying to sell a copy of the National Post to a person at a streetcar stop if the police felt it was necessary to ascertain his identity. In fact, of course, it is poor people and homeless people who are being criminalized by this bill.

In the 18th century, Anatole France observed that the equality of the law in his day did not amount to much for poor people. He observed that the law, in its "majestic equality," prohibits rich and poor alike from begging on the streets and sleeping under bridges.

This type of illusory or formal equality has been consistently rejected by the Supreme Court of Canada in its consideration of equality rights under human rights legislation and under the Canadian Charter of Rights and Freedoms. As the court had previously noted in its famous case of *O'Malley v Simpsons-Sears*, a discriminatory intent can easily be cloaked in apparently neutral rules. It does not matter whether this bill explicitly mentions homeless or poor people. If the effect is discriminatory, then the legislation will run contrary to the guarantees of equality in our charter.

We believe it is clear both from the government's commentary about this legislation and from its provisions that the effect will be to establish the basis for a police attack on a vulnerable and disadvantaged group on behalf of the more advantaged members in our society.

Why is it illegal to beg for money while intoxicated when it is not illegal to carouse drunk supporting a



baseball or football team? It is no more threatening for someone to be asked for money for a coffee than to be accosted by a group of drunken sports fans trying to enlist vocal support for their team. The difference is in who does the activity, not in how threatening it is.

Women waiting for telephones or buses are routinely sexually harassed. Visible minorities face racial harassment routinely in such places. Sadly, in most instances the harassers are immune even from the mild complaints procedure under Ontario's Human Rights Code. Is being asked for money from a woman needing food to feed her children more threatening than sexual or racial harassment? Of course not. This bill is not aimed at protecting people from real harm. It is aimed at criminalizing a vulnerable group.

The list of places in which begging is prohibited is described as a list of places from which a person cannot easily depart or from which they would not wish to depart until they have achieved their purpose, done their business. In fact, they are mainly places in which people are standing around and are therefore more likely to have the time and inclination to make a donation to someone. They are the same places that Conrad Black places his National Post boxes or that the Ontario government places its election advertisements: bus stops, taxi stands, public facilities that attract pedestrian traffic or parking lots where the more affluent must leave their cars and have the time to read posters or to consider a plea for compassion and generosity.

#### 1600

In CERA's view, for all the valiant efforts of your legal advisers to charter-proof the bill, it would be found in its present form to violate section 15, the equality rights section of the Canadian charter, as well as other provisions dealing with freedom of expression and liberty.

Section 15 protects historically disadvantaged groups from government actions which impact on them in a negative way. Most of us are familiar with the groups that are protected from state discrimination. We know that people cannot be discriminated against because of the colour of their skin, their sex, their sexual orientation, the level of their physical disability, their nationality or a whole host of other grounds.

Presumably, if the Legislature were considering passage of a piece of legislation which specifically targeted behaviour that was associated with any of the groups mentioned above, it would seriously question the charter implications of its decision. Legislation criminalizing a certain form of prayer, for example, would be vulnerable to a serious charter challenge, charter scrutiny, and everyone would know it. The same situation in our view arises here.

We have a piece of legislation which criminalizes a behaviour, begging or squeegeeing, which is associated with a particular social group, the poor, and particularly the homeless. Its purpose and effect is not to protect people from harm or to regulate business in the public interest; rather it is a deliberate effort to get these people

off the streets, as politicians have described it, and to ensure that the affluent can carry on their lives without coming into contact with the poverty that is increasingly in their midst.

More affluent people use public spaces to make telephone calls, park their cars, use instant teller machines, walk along the sidewalk to their favourite café or bar, or catch a taxi. Poor people do not enjoy these uses of public spaces. They increasingly rely on public spaces to solicit donations in order to be able to meet their most basic necessities.

Similarly the more affluent use roadways to drive downtown to their work or entertainment. Homeless youth use the same roadways to offer to wash windows in the hope of receiving a small payment. Legislation which aims at ensuring that people are not improperly obstructed from enjoying these uses of public spaces would be legitimate, just as legislation which that squeegee kids did not obstruct traffic might be an appropriate public interest goal. That is not what this legislation is about in our view. By prohibiting certain activity, it banishes certain people, trying to ensure that the affluent don't have to be bothered by these people when they venture into public spaces.

A number of courts have recognized that poor people are subject to discrimination and are therefore entitled to the Canadian charter's protection against discrimination. While there is as yet no case law on it, CERA believes that homeless people as well are a group which the courts will find to be protected from discriminatory treatment.

In Western societies there has been a long history of anti-homeless legislation. They were passed during the 14th century to keep labourers tied to their masters during times of labour shortage. By the 16th century, however, they had been applied more generally against the homeless.

An English variant, for example, required that any arrested idle person found guilty of vagrancy should be whipped in the marketplace until they were bloody. This law marked a changed attitude towards people who were unattached to a particular place or position. Beggars and vagrants who were once respected as the children of God in more religious times quickly came to be seen as a threat to a society becoming increasingly loyal to secular values and productivity and material wealth.

Examples of the criminalization of homelessness also started to appear in the 18th century in North America, with New York's anti-transient poor law being one of the front-runners.

History points to a remarkable thematic consistency in the treatment of homeless people in society. Homeless people historically have been punished for their economic disadvantage and our societies have consistently distinguished them for unfavourable treatment. Physical mobility or liberties have been restricted, particularly with the advent of workhouses, and brutal punishment has been meted out when individuals were not found tied to a particular place.

Legislation which unjustifiably draws discriminatory distinctions or which has the effect of creating discriminatory distinctions between a disadvantaged group and more advantaged members of our society, and which perpetuates or exacerbates this disadvantage of the group, will be found generally to violate section 15 of the charter.

Bill 8 creates a distinction between those who are homeless or in need of begging and those who are more advantaged by prohibiting the use of public spaces on which the former rely for their livelihood. The law, like so many discriminatory laws in the past, criminalizes a behaviour which is usually associated with homeless people. Its purpose is essentially discriminatory, to ensure that affluent people do not have to come in contact with the needs of those who are homeless.

In conclusion, we urge this committee to reject Bill 8 and focus its attention not on criminalizing homelessness or the poor but on alleviating poverty and eliminating homelessness in Ontario.

#### MENNONITE CENTRAL COMMITTEE ONTARIO

**The Chair:** Our next presenter is the Mennonite Central Committee. We have Brian Enns and Andrea Earl, if they could come forward.

Thank you very much for coming today. You have 10 minutes to make your presentation.

**Mr Brian Enns:** The rhetoric of safety that surrounds Bill 8 should make us realize that this bill is being used to institutionalize conflict between people. By criminalizing behaviour that is deemed threatening to some people, the government is employing measures, such as fines and jail terms, that address a perceived problem and not the actual problem. A perceived problem is that some people are threatened by the conduct of other people. A perceived problem is understood as a person-to-person relationship; for instance, one motorist feels threatened by the squeegee person.

The actual problem, however, is within the community. Stereotypes about squeegee people and those addicted to drugs perpetuate the conflict within communities. Unfortunate incidents, where the inappropriate conduct of one squeegee kid is assumed to be representative of all squeegee people, make it difficult to understand who squeegee people truly are.

It also makes it difficult for us to ask the hard question, as Ms McLeod did in the Legislature: Why are these people squeegeeing? This question is not as easily answered as some might suspect. Stable jobs with good wages and permanent housing are answers, but they do not address the problems of the community: stereotypes of people who live and work on the streets, conflict within the community and how to build peaceful relationships that foster the love embodied by Christ.

Fines and jail terms are answers that the government has proposed to end aggressive solicitation and other offences. Mr Martiniuk told the Legislature that this bill

is introducing stronger measures to punish people. The bill would serve to punish the offender through policing and legal systems that tend to ignore the needs of the offender, the victims and the broken community. Building healthy communities, a more holistic vision than a safe community, is not about removing the perceived problem, a person who may be a victim himself or herself.

There's nothing within the bill proposed or the remarks made by the Attorney General that offers a vision of building healthy and peaceful communities. This bill would undermine the activities of people working towards justice, peace and compassion for all people.

Mennonite Central Committee Ontario has used community mediation models for 25 years. VORP, the victim-offender reconciliation program, is relevant and models a viable alternative to the crude justice of the proposed bill. Here are some examples of how VORP works: A teen breaks into a young couple's home; the teen faces them, apologizes and together they agree on restitution. A single mother faces problems of anger and theft with her child; restitution, counselling and support from the church community provide reconciliation.

VORP ensures that both the victim and the offender are part of the process of restorative justice.

Mennonite Central Committee Ontario encourages the committee on justice and social policy and the government to consider community mediation models in an effort to build healthy and peaceful communities, not just safe communities.

In order to speak for those people who are affected most by this bill, I now would like to introduce Andrea Earl, who works for Evergreen.

**Ms Andrea Earl:** Hi. I work for a drop-in centre on Yonge Street—I'm sure you've all heard of it—called Evergreen, with Yonge Street Mission. I work with these youth. This bill concerns me because I see these youth as a minority, and I think this bill makes safe streets for people who have a voice, but is it safe for squeegee youths? I'd like to explain a little who squeegee youths are, besides the generalizations that come across, especially in the media.

1610

Street youths make money in four different ways. One would be squeegeeing, the second would be panhandling, the third would be through the sex trade and the fourth would be through the drug trade. Taking panhandling and squeegeeing out leaves two options for them. It's difficult for youths to find jobs. It's difficult for street youths to even get their ID. Once they get involved in these things, it's even harder for them to get out of it.

Who are these street youths? They're kids who come from the suburbs; they're kids who have specific stories of their own. I don't think they should be overlooked in this. If they end up getting fined, they obviously cannot pay these fines so they will have a warrant for arrest and will be jailed. It costs more to jail these youths than to set up shelters for them. To have a youth overnight in a shelter is a lot less money than to have a youth in jail.



Not only that, but when youths go underground, into things like the sex trade and drug trade, it's harder to find them and get them out of that position.

Who are the streets safe for? I don't think they're safe for these youths who don't have homes. This is just making it harder for them. That's what I wanted to share today. If there are any other options that you guys could think of—I know Winnipeg has something where you license squeegee youths. I really hope you guys will think more about this than maybe covering up a problem of homelessness. That won't go away.

**The Chair:** Anything further? I'd like to thank you for your time. We appreciate it.

#### SEATON-ONTARIO-BERKLEY RESIDENTS' ASSOCIATION

**The Chair:** The next group we have is SOBRA, the Seaton-Ontario-Berkley Residents' Association, Gerri Orwin. Thank you for coming. You may proceed.

**Ms Gerri Orwin:** I represent SOBRA today. SOBRA does support this bill. My name is Gerri Orwin. I work on a drugs and prostitution working committee of SOBRA. SOBRA is a residents' group formed 10 years ago. We live downtown in the Cabbagetown area. In the beginning, we were fighting street-level crime on our own. We went to many politicians back in 1990 and no one would help us, so we had the option of selling or standing up and trying to protect our own streets, and we chose the latter.

The bill caught our eye mainly because of the words "condoms," "needles" and "penalties." The reason for that is that's what we're inundated with, and have been for the last 10 years.

I wish, in 10 minutes, I could give you at least two minutes of what has gone on in that time. I can't do it; I can't possibly paint you a picture. But I want to tell you a few things about why we're in favour of a safety on the streets act.

I'll start with the condoms, because that was the first thing that caught our eye. The condoms, of course, have people attached to them called pimps. And the pimps call the drug-addicted women that they unfortunately own, their bitches. The upstanding citizen, the john, who comes into our area on his way to work looking for a quickie, or the guy delivering for his company through the day stopping for a quickie, are all looking for that crack-addicted woman run by the pimps, who in most cases are also their drug suppliers.

We have had to put fencing in front of our homes because when we left for work we would have hookers servicing their johns on our front porches; we'd have the pimps sitting on our steps. People have gone as far now as putting locks on the gates of their fences so that not even a postman can deliver the post. We took down the fencing we had in our backyards and erected 8-foot, 10-foot fences, in some cases higher, around our back properties, again to keep out the dealers who were using our backyards to run their business while we were out

through the daytime. We even had hookers servicing their johns in our backyards at night, using our picnic tables, while we were home. So up went the fences.

We bought big dogs. I'm one of them. I have a dog so big and so strong I just cannot walk him. We have security systems. It goes on and on. We have written the book on neighbourhoods trying to take back their streets on their own, and I'm telling you, we're really tired. We see a glimmer of hope in this act. We are hoping you're going to help us.

The laneways are filthy. The laneways are cluttered with syringes and condoms. In October, 36 of us got up one morning at 9 o'clock on a Saturday. We met in the laneways with our garbage bags, our heavy gloves and our shovels, and we cleaned two of the major laneways that children travel back and forth from school several times a day. The reason they use the laneways is because their mothers don't want them out on the main street. Unfortunately, the street-level criminals, as we call them, are also using those laneways. We filled over a hundred bags with debris—some things I wouldn't even tell you about—condoms galore. We picked a total, in separate containers for the city, of 46 needles.

We have a program in the area called Harm Reduction. They give out clean needles for addicts, and it probably does reduce the harm while they're still sober, but once they're high I can't imagine that they care anymore. The needles are scattered all over our area. It has brought more harm to our area. Where before we might pick up, on a Saturday morning out cleaning, maybe two or three needles, now we're picking up 46, which means that a child, running and scampering down that laneway to school, who's always tripping and falling, has 46 more chances of falling on a used needle now than he did before.

The needles are another big problem. They're found in all our schoolyards, in our laneways, the same places. A neighbour of mine, the other day, took his little two-year old girl to a parkette. It's mainly used by toddlers. All the play structures are tiny, for the small children. His little girl ran around and fell down, and as he went to pick her up, he noticed that her hand had fallen on a used condom. When he picked her up he noticed she had semen on her hand. This man phoned me, and I don't have the words to describe to you the emotion in that man's voice. I'm afraid that he and his wife will have their For Sale sign up very shortly. We're losing so many good people because nobody, to this point, has helped us, except the police. I have to tell you that they have been excellent. I'm afraid that the police, at this point, feel that they are not backed by politicians and by the courts.

I want to tell you about this program that was instigated six years ago; I am the volunteer coordinator of it. It is called the community witness program. We go to court when we get the phone call telling us that one of the major criminals on our streets has been convicted once again. We go there, we talk to the judges and we ask them to please start putting these people in jail. These are not people who have 10 prior convictions. These are

people with 20, 30—and the winner of all time is 68; 68 convictions and they're put back out on our streets. The judges say: "Why are you bothering me? This is a pain-in-the-neck petty crime. Selling drugs is not the end of the world. I have other important cases to try." They say it is a victimless crime, and a victimless crime to them means, "We have a willing buyer and a willing seller, so what's the harm?"

1620

The harm is to our entire neighbourhood, and it's been going on now for 10 years. The police go in there, they are treated like the enemy. The judge does not want to hear from police who are out there arresting. I've been out with them in the daytime. They go out, they get punched, they get stabbed, they get knifed, they get spit at, they get bitten by HIV-infected hookers; and some of course die, as we all know. These police cannot tell you how discouraged they are. They are kept from telling you by their superiors.

We're asking for one change in your bill. We notice that under penalties you're suggesting the maximums, and the maximums are fine, but the "suggesting" is where we are frightened to death that nothing is going to come of this bill. Those judges don't want to be bothered with these petty crimes, as they see them. We've asked before and we'll ask again: Is there some way that you can find to take these petty crimes out of the judges' daily lives, take them off their work plate, set them aside, set up a system where when someone reoffends for the umpteenth time, you have an escalating scale of penalties? That way, you attach a penalty to a law. That way, the police know they're not going to be wasting their time. That way, we then know we're not wasting our time going to court and feeling like the criminals walking out.

This is what I'm here to tell you all today. I am telling you we are happy that you're trying something, but we seriously ask you to look at mandatory sentencing.

**The Chair:** Thanks very much, Gerri. We're out of time for your presentation. I appreciate it.

## LOW INCOME FAMILIES TOGETHER

**The Chair:** The next group to present is Low Income Families—

**Mr George Smitherman (Toronto Centre-Rosedale):** Mr Chairman, use the allocation of time from previous speakers. We were given another 10 minutes from the—

**The Chair:** Have you been substituted here? I think you're an extra.

**Mr Smitherman:** I think I'm allowed to ask questions.

**Mr Kormos:** He's entitled to speak under the rules.

**The Chair:** I'm going to get back to the hearings here.

**Mr Smitherman:** I'd like to pose a question, if I could, please.

**The Chair:** Next is Low Income Families Together. I'd like to hear the presenters and not the politicians. Is this Linda Walsh?

**Ms Linda Walsh:** Yes, it is.

**The Chair:** Thank you, Linda. You have 10 minutes to make your presentation. Thank you for coming.

**Ms Walsh:** First of all, I'd like to thank you for allowing me to present to this committee the opinions of Low Income Families Together on the bill known as the Safe Streets Act. First, I'd like to tell you a little bit about Low Income Families Together. Our organization is a non-profit that strives to assist low-income individuals find their place and their voice in this harsh political climate. We offer those who have an interest access to a series of engaging and interactive workshops that can assist them in understanding the current economic reality. We believe that knowledge is power and the more knowledge a low-income individual is given, the better they can be prepared for dealing with the tremendous stress imposed on them by our changing social support system. Our three areas of interest are human rights, self-help advocacy and community economic development.

We're a grassroots organization that has been around for nearly a decade. We work with low-income individuals and groups to assist them in their wish for change. We're proud of our contribution to the Ontario People's Report to the United Nations and are equally proud of our community business partnerships. We have in this last year assisted several members of our community find alternatives to Ontario Works and watched them become self-confident and self-sufficient by returning to school, finding employment or becoming a partner in a community business.

We're not afraid to speak out about the thousands of Ontario citizens who are hungry, homeless, helpless and yes, even lost. We acknowledge that a community is built one brick at a time, and usually this method takes a little longer, but the lasting results make the investment of time and resources more beneficial in the long run.

I've come here today in response to the call for consultation by your committee. LIFT, I'd like everyone to know, is opposed to the littering of parks and playgrounds with glass, needles and condoms. We also are opposed to citizens acting in a threatening way towards each other on the streets of our communities. However, due to time constraints I'll limit my comments to the parts of this bill that affect low-income people who currently engage in the practice of squeegeeing car and truck windows, begging for money and hitching rides in our city.

My comments are based on the experience LIFT has had with economic development projects over the last six years. Our first successful business venture is a full-service computer store—this will be a small plug—at 145 Front Street East, called Computer Access for Everyone. It has a 12-workstation training room, computer sales, service and software. The reason I mention our community business is because in this business everyone involved in it—the partners, the employees—are all



people who formerly were street people and people on assistance.

I've noted that the people who find themselves working on the corners of Toronto streets, squeegeeing and what not, are by far the hardest group of young people to reach. Their needs are greater than most. They don't have access to services that are appropriate for their enormous needs. We found that when we're trying to build community businesses using marginalized groups of people, they take more than six months to click in, to become productive citizens.

Most of the programs that are out there for young people today are short-term, and we as an organization feel that squeegee kids and those who find themselves without adequate support need longer programs and programs that have a wider reach. The programs that we offer to people who come to our organization encompass the whole person. We deal with them on an emotional level. We try to make sure that their basic needs for housing, food and shelter are met.

My reason for mentioning all of this is that the kids who are on the streets squeegeeing don't have access to appropriate services, and therefore they also don't have any money. So we think that imposing a \$5 fine on these people who are least able to pay is not really appropriate. There should be some other way to penalize them for trying to make a buck in the city.

As a government, if all of your services were looked at in a pile almost, if you combine social services with perhaps some kind of a penalty that would incorporate maybe making them go for some kind of long-term training, it would be more beneficial than giving them a criminal record, because sometimes all these kids need is just a chance. I think it's really important not to ruin them right from the start by charging them and giving them a record over squeegeeing. In days gone by, that entrepreneurial kind of spirit would have been thought of as a great thing. At least they weren't begging.

Anyway, that's all I have to say on the subject. I think that there has to be something done, but I think your penalty is too harsh for people who are just trying to make a buck. I don't agree with people who threaten or harass other people, but just for trying to get by, I think \$5 fines and imprisonment are too high a price for them to pay.

1630

**The Chair:** Thank you. Each party has a minute.

**Mr Kormos:** It costs, again depending upon where you are, \$80 to \$100 a day to keep somebody in a local detention centre like Metro West or Metro East, perhaps even up to \$110 to \$120 a day. That's \$3,000 a month. If you and your organization had that \$3,000—that's what it would cost to keep a squeegee kid in jail for a month—what sort of things could you be out there doing?

**Ms Walsh:** We could be offering more counselling, more support, training environments for them. We could be training and assisting them to actually become productive and feel better about themselves so they could

actually approach a regular organization and ask for a job and be successful.

**Mr Kormos:** Thanks for coming out.

**Mr Beaubien:** Ms Walsh, thank you for your presentation. You mentioned that you feel we should not impose a fine, that it might be too severe. How would you deal with the culprit?

**Ms Walsh:** Depending on the situation, most people who squeegee aren't violent. I don't know.

**Mr Beaubien:** It's a difficult situation, isn't it, especially when we had the previous presenter? We all have rights, I guess, but I heard the previous presenter and some of the questions and I think you're having a tough time balancing the situation. How do we deal with it?

**Ms Walsh:** The only thing I can think of is if the government chose to have long-term training plans for people who are living on the street like that, incorporating them into community businesses or training programs which would actually help them rather than punish them. Teenagers, as most of us know, are sort of at a crisis time in their lives anyway and to be saddled with some kind of criminal record, because they were trying to make a dollar, seems totally unreasonable. I can understand the last presenter's point about having pimps and prostitutes, but I'm not really addressing that part of the bill; I'm just talking about squeegee kids.

**Mr Smitherman:** Ms Walsh, a couple of people earlier, Andrea Earl from Evergreen and also the SHOUT clinic which was introduced and does a lot of work with street-involved youth had indicated that of the four sources of income that are available to lower-income people, particularly youth, squeegeeing may be the least offensive from the standpoint of impact on the community. Is that something that's reflected in the work you've done within LIFT, that other options in some cases are worse for them?

**Ms Walsh:** Oh, yes. One of the things I meant to mention is that if a kid is faced with having to go to jail because he squeegeed, it may make him up the ante. He already has nothing to lose, so what would stop him at that point from saying, "Well, if I'm going to go to jail anyway, why don't I just rob this person or break into that house or whatever?" It might even escalate violent behaviour of street people just because of the penalty imposed.

**The Chair:** I'd like to thank you very much for coming

## JUSTICE FOR CHILDREN AND YOUTH

**The Chair:** Next is Justice for Children and Youth. We have Albert Koehl, a lawyer. Mr Koehl, thank you for coming. We have 10 minutes for you to make your presentation.

**Mr Albert Koehl:** Thank you, Mr Chair, and thank you to the members of the committee for giving us the time to make this presentation. Justice for Children and Youth is a community legal clinic that was established

more than 20 years ago. Our clientele are children and youth under 18 who have problems with the law or simply need help in the areas of education, welfare and health.

We also advocate publicly on issues that affect youth. Certainly this issue is one that affects youth, and in this case I'm referring specifically to the part of Bill 8 which deals with squeegee kids.

The fundamental question that I believe we need to ask is, what will happen to the children and youth if they don't have this source of income available to them? In other words, where will these young people go and what will they do?

In my presentation I want to deal with four areas very quickly. First of all, I want to deal with the parts of this issue that we can all agree on. Secondly, I want to deal with the context of this issue. Thirdly, what will be the impact of imposing, putting in place, implementing a law to outlaw squeegeeing? Fourthly, what are some of our options in this particular case?

Firstly, in terms of what we can agree on, we agree that if a car driver refuses a squeegee service, they're entitled to do that. In fact you would be surprised to find, if you talk to squeegee kids, that a lot of them agree with that, because of course they know that if there are other squeegeers who are not following a particular conduct, that hurts their livelihood, their opportunity to make money, just as for instance I, as a lawyer, know that if there are other lawyers who are dishonest, in the long run that hurts my profession, hurts my ability to earn a living.

We also agree that car drivers, residents, businesses have the right to be free of people damaging their cars, have the right to be free of, for instance, things that have been mentioned: drug use, threats, indecent acts.

We all so much agree on this that this is part of our criminal law. But the fact that we notice that many of these children are dirty, that they perhaps haven't washed properly, that they wear metal objects in parts of their bodies we might not wear metal objects, those are things we can't simply then characterize as criminal activity. These other things I've mentioned are criminal acts, and of course our law prohibits those acts.

We agree, I believe, that some squeegee kids come from suburbs in the warm weather, we agree that some are from out of town, we agree that some are not kids and we also agree that squeegeeing at the moment is not illegal.

Let me then agree with what I believe is the crux of the issue. First of all, we are dealing with young people. The Community Social Planning Council of Toronto surveyed 71 squeegee kids last year and found that two thirds are under 21. Most are homeless; the same study found that in fact 76% of those kids are homeless.

We know that there is a severe shortage of affordable housing in Toronto. We know that many of these kids have left abusive homes. We know that many of these children and youth can't find employment and many of them lack the necessary skills. We also know that the youth unemployment rate is quite high, at about 16.2%.

We also know that the welfare laws have been changed to make it much more difficult for 16- and 17-year-olds to support themselves once they've been kicked out of home or have had to leave abusive homes. It's more difficult for them to receive social assistance and therefore to support themselves.

I want to tell you what I believe will be the impact of the legal response that is being proposed, and I tell you that in part as a former prosecutor with the Ministry of the Attorney General where I worked for some years.

The law that will make this legal activity illegal and allow police to intervene does not have enforceable penalties. Of the penalties in this particular case of fines and imprisonment, certainly imprisonment can be enforced but the fines themselves will simply lead children and youth to further squeegeeing activity or other activity that is even less desirable. In other words, what we may very well do with this law is lead to a trivialization of the legal process because we have a law that cannot be enforced by the way it's being proposed.

Enforcement will be quite expensive. Police work is necessary; we need lawyers, judges, corrections officials. What the community should know is that we will have to divert police resources from other areas of criminal enforcement. In other words, as to those police officers who perhaps are stopping the indecent acts going on in people's back yards, the drug use, the disposal of needles which presumably carry drugs and are therefore illegal, we'll be diverting resources from that.

Also acceptance of the law in the public could be infringed, because of course in this case we are targeting a particularly disadvantaged group, that being disadvantaged youth, and the acceptance of any law or the force of any law will depend very much on its acceptance by the community at large.

Finally, this law will be changing a highly visible activity, one that you can easily monitor, to one that is potentially and much more likely to be something underground, less desirable and more costly to the community. For instance, as to activity that is already criminal, that being break and enters, prostitution and drug dealing, a recent University of Guelph study has confirmed that, saying that squeegeers in general are less likely to be involved in petty crime, prostitution and drug dealing.

**1640**

Finally, let me suggest to you what are potential community responses. I say this firstly because, of course, squeegee kids are part of our community, just as the businesses, car drivers, pedestrians, and others that are affected by this activity are part of our community. The Social Planning Council of Winnipeg, for instance, suggested that this activity could be regulated through a system whereby a local social service agency receives a permit from the city and then is responsible for particular commercial areas. In that particular commercial area that social service agency will give out a restricted number of permits, have the squeegee kids identified as such and in that way make sure that the activity doesn't go on on



every single corner and that there's a code of conduct that the squeegee kids are adhering to. If you say you don't want your windshield wiped, it won't be wiped. That's the code of conduct that then must be respected by the squeegee kids.

The other ways of dealing with this issue are longer-term solutions dealing with the problems of lack of skills of some of our youth, lack of affordable housing, lack of education alternatives and the problem with welfare eligibility.

Another option is simply to speak to these kids. Many of you would be surprised. These kids are part of our community. They're trying to survive and they're trying to do something useful so that they can survive. In fact, many of you might agree that if we saw some of these kids sitting on the street corner doing nothing, we might say to them: "Why don't you do something? Maybe wash someone's window."

We aren't trying to convince people that squeegeeing is desirable. In fact, it's quite the opposite. It's a manifestation of a deeper societal ill that requires us to work as a community to solve the problem. We don't want to further polarize the community. We understand the legitimate concerns on both sides of the arguments. When we say "these people," we need to recognize that these people that we're talking about could very well be our children.

### TORONTO POLICE SERVICE

**The Chair:** Our next presenter is the Toronto Police Service, Staff Sergeant Ken Kinsman. Thank you, Mr Kinsman. You have 10 minutes to make your presentation.

**Mr Ken Kinsman:** My name is Staff Sergeant Ken Kinsman. I'm a member of the Toronto Police Service and have been so for the past 25 years. My experience is that of a front-line police officer. The majority of my postings have been within the downtown core of the city of Toronto. I have considerable experience in community policing and I'm actively involved in solving complicated community problems in partnership with the numerous community groups within the inner-city area.

The question I wish to provide perspective to today is: Why is the enforcement by police towards disorder issues so important? Are squeegees and aggressive panhandlers the most important problems for the police to solve? The answer is definitely no. Are they important issues for the police service to be concerned about? A definite yes.

My rationale for this is if you would please envision it as a pyramid of crime. Picture the street-level drug dealer on top of this pyramid. Directly beneath that are the consumers of drugs, the prostitutes, the pimps. This layer is followed by those who steal and those who make a living dealing with stolen property. Beneath this layer there are those who go about publicly intoxicated, aggressive panhandlers, aggressive drivers, and I lump the squeegees in with this group at this level. The final

layer of this pyramid involves graffiti and garbage and litter issues.

This pyramid of crime makes disorder issues an important problem for the police to solve. One does not topple a pyramid by pushing at the top; one erodes it from the bottom. Solving or prohibiting these small acts will definitely affect and have a powerful impact on solving crime in general. It is my position that disorder issues are the most serious problem facing communities today. At the numerous community meetings I have attended, disorder issues are the most prevalent problems discussed. It's not uncommon for a bank robbery or another serious type of crime to occur within a neighbourhood, and at the next meeting I attend there will be no comment concerning the bank robbery or the other serious thing; it's the small, in-your-face problems that the communities are more concerned about.

The message I give to officers who work with me is a simple one: Do not walk or drive by a problem that you see on the street. In community policing the public is asked to contribute much in problem-solving and assisting the police. It is important for the public to see the police doing their job. To a small businessman, the most important issue he observes is a disorderly individual in front of his store driving business away. Bill 8, if passed, will provide the police with the proper tool to assist us in solving this problem and provide relief to the frustration levels that both the police and the community are facing in being unable to deal with this problem.

Critics will state that the police will target vulnerable members of society: the poor and the homeless. The Toronto Police Service does not target individuals because of status. We do, however, target disorderly behaviour. In a report on homelessness to the police services board, Police Chief David Boothby stated:

"There is an unfortunate tendency to link any effort to control disorderly conduct with the very different and separate issue of homelessness. By allowing the discussion to be framed in these terms, we invite criticisms that our efforts to control inappropriate behaviours are little more often than harassment on the poor. This is definitely not the case. There is no linkage between the condition of being homeless and unruly or predatory behaviour. In fact, homeless persons are among the most adversely affected by these behaviours. They are victimized more often, and when victimized the consequences can be far more devastating."

I have some facts concerning squeegees that I have prepared. This is in relation to 14 division, which is geographically speaking the second-smallest Toronto police service division. It's bounded by Lake Ontario to the south, Dupont Street to the north, Spadina Avenue to the east and Lansdowne to the west. I did a sampling of persons investigated between May and October 1999, and I determined that there were 331 squeegees operating within that area. Of the 331, 101 of them were female and 230 were male. The males ranged from 16 to 60 years of age. The females ranged from 15 to 41 years of

age. Their points of origin are all over Canada, the USA and Europe, with the majority coming from southern Ontario, Quebec and the Maritime provinces. A random sampling indicated that 38% were on probation for various offences and that 62% had criminal records, the number one crime being drug offences, the second most prevalent crime being assaults and the third being mischief or damage to properties.

There is a link between disorderly conduct, fear, crime and deterioration of the quality of life in the neighbourhoods. The Toronto Police Service strongly supports Bill 8, as it will provide another valuable tool to make Toronto one of the safest cities in North America.

**The Chair:** We have a minute for each caucus. We'll start off with the government.

**Mr Beaubien:** Staff Sergeant Kinsman, one of the previous presenters—I think it was the presenter at 3:50, Brian Enns from the Mennonite Central Committee—said that restitution provides conciliation. Do you believe in that?

1650

**Mr Kinsman:** Yes. There are some interesting things being done in the justice system with restitution.

**Mr Beaubien:** But do you think that a victim always associates monetary gains or restitution as a way of reconciling? I spent 25 years in the insurance industry, and people told me that when their house was broken into or their personal belongings were taken, it was the personal attack on the persons themselves. There was trauma, there was a stress level. Do we associate monetary compensation with it?

**Mr Kinsman:** It depends. In most cases, no.

**Mr Smitherman:** What division are you with, officer?

**Mr Kinsman:** I was with 14 division up to October.

**Mr Smitherman:** Currently?

**Mr Kinsman:** I am currently with 52 division, which is a downtown division.

**Mr Smitherman:** I live in 51 division. As we speak, drug dealers are lining the streets of my riding—River Street, Dundas Street, Gerrard Street, where I live. Talk to me a little bit about police resource issues, numbers of police on the streets in Toronto compared to five years ago.

**Mr Kinsman:** I don't have the exact figures but from my understanding—

**Mr Smitherman:** Fewer or more?

**Mr Kinsman:**—there are fewer police officers on the streets.

**Mr Smitherman:** One final question: Tell me a little bit about repeat offenders and problems with respect to addiction. Do the guys on the beat see the same people all the time back on the streets, crackoes, as they are referred to?

**Mr Kinsman:** Within 14 division we've run a number of drug projects, and this is why I'm a firm believer in solving the little problems to look after the bigger problems. We have run a number of QUEST projects, which is an acronym for quieting the urban environment

through strategic targeting, where we go out and directly target the street-level dealers. The four years I was there, we arrested literally hundreds of street-level crack dealers. I have tracked them to look at people we have re-arrested, and the number one fellow we have re-arrested on five of these projects. It's very frustrating.

**Mr Kormos:** Thank you, sir, for coming today. You were here when Ms Orwin was giving her evidence on behalf of her neighbourhood. I can't and won't refute a single thing that she says as she describes a desperate and, in many respects, disgusting scenario.

**Mr Kinsman:** As an officer who is involved with community policing, I am the recipient of the phone calls from people like her on a daily basis.

**Mr Kormos:** My question is this: If the police haven't been able, with the resources that they have now, to curtail the conduct she's talking about—open prostitution, people shooting up—how are police going to be able to identify somebody throwing away a used condom or somebody discarding a needle? If police resources as they are now haven't curtailed what's been going on there—and I agree with her that it's unacceptable in a neighbourhood—how is it that fighting condoms or needles is going to solve it?

**Mr Kinsman:** Well, 14 division and 51 division are like pages of a book, with 52 division sandwiched in between, very similar problems. I talked about the pyramid of crime. The drug dealer on the street is the number one problem. We can keep on knocking off that drug dealer continuously. Unfortunately, they're much like cockroaches: They multiply very quickly—

**Mr Kormos:** I don't disagree with that analogy.

**Mr Kinsman:**—and they're back in before we can change our shift. They just keep on going back. It's very important for the community, mind you, that we keep on attacking the street-level drug dealing. It's important that they see us out there dealing with it. However, is it working? No, it's not working, because it keeps on backfilling.

That's why, when I talk about the pyramid of crime, we've got to deal with the small things and make the whole community safe. The more people we get on the street the safer it will be. We've got to start reclaiming some of our neighbourhoods. By dealing with graffiti, litter, perhaps the squeegee on the corner, perhaps the aggressive panhandler, perhaps the aggressive drunk, it will have the impact we're looking for. We've tried other things; maybe it's time to try this.

**The Chair:** Thanks very much for your time. We appreciate it.

## HAMILTON AGAINST POVERTY

**The Chair:** Our next presenter is Hamilton Against Poverty, Julie Gordon.

Thanks very much for coming. You have 10 minutes to make your presentation, Julie, and maybe you can introduce who's with you.



**Ms Julie Gordon:** I'm Julie Gordon and I have with me Herb Joseph and Wendell Fields.

I take offence at this act. I believe it's targeting prostitutes, panhandlers, hitchhikers, anybody out there who might even be having a car wash, the hot dog vendors, the lunch salesmen, trucks, Dickie Dees, gays in public places, anybody who's drunk in a public place. It could affect information picketers who are standing on the road giving out literature, strikers providing information and giving out written or printed material, Jehovah's Witnesses. It could even make it illegal to have a highway opening, such as the one of the Lincoln Alexander Expressway where Mike Harris was making a speech to the people of Hamilton. He was blocking the roadway. Would you make this an illegal act? You have to be careful the way you word these things.

I feel it's very unfair to people that they could be subject to a psychiatric referral as a result of breaking one of these laws. This is way too strict. You're not only taking away somebody's freedom by arresting them, but giving them a psychiatric referral could mean that their freedom is limited for an unlimited period of time.

I have thought out a couple of alternatives to these laws: that you have designated areas for squeegees and all these other people who are affected, like people who are simply selling lunches to workers; that you legalize prostitution; that blue boxes be provided in public places for safe disposal of glass; and that you have improved bus services for those who are in need of transportation.

**Mr Wendell Fields:** My name is Wendell Fields; I'm a member of Hamilton Against Poverty.

For over a year now the government and monopoly media have been engaged in a well-financed campaign of misinformation and fear-mongering about the youth, the poor and squeegee kids being a safety hazard. Once a climate of fear has been established, it's used to justify putting in tough legislation as the solution to criminalize the poor and the youth.

Why did the government not consider that they were creating a hazard to Ontario society and people when they cut or reduced social programs, when they cut or reduced health care, when they cut or reduced education?

Squeegeeing and panhandling are one result of these measures. It's a problem of society. The "bad behaviour" of panhandlers and squeegee kids is promoted to ensure that the substantive issues are not raised. Why there's a need for squeegeeing or panhandling to make a living for oneself is not addressed, nor is it even a consideration of those who draft this legislation. What the problems facing squeegee kids and panhandlers are is not considered. It doesn't occur to some people to investigate and address this. Why do people beg? Why do people squeegee? Why does Ontario society not take all human beings and their well-being into account? Why is the sole concern of the Ontario government to make monopolies competitive on the global market? Why does this government not recognize that it has a social responsibility to all the members of Ontario society?

This government represents a certain type of society which refuses to recognize that the people of Ontario have the right to a livelihood, the right to a free, quality education, the right to 24-hour recreational centres, the right to their own social consciences. In the 19th century, with the logic of the criminologists and social workers in Canada, it was promoted that aggression appears to be an innate human impulse. Poor families were not guaranteed food, shelter, education or income support, which led to malnutrition and starvation. Under such conditions, the youths were forced to steal food and other household necessities in order to biologically survive and to sustain themselves and their families.

Today, when the government's role is to do everything to ensure corporations' maximum return on their investment dollar in the global market, it is abandoning the Ontario people to destitution by removing funds from health, education and social programs. This is also done in the name of having a strong economy, one in which the provincial debt has increased almost two times, from \$39 billion in 1989 to \$105 billion. There's your strong economy.

When the youth try to survive by offering a service for a voluntary donation—a tip, if you will—by cleaning car windows, a service once done by gas station attendants, they do so out of necessity because Ontario society is not organized in a manner which guarantees that their needs are met.

What do the youth and poor have? What is the level of education they're receiving? Do they have access to recreational facilities? Do they have food? Do they have shelter? Do they have warm clothing? Does the government, when drafting legislation, take these factors into consideration?

1700

There are very real social, economic and political problems facing Ontario society and this arbitrary legislation to force the youth to toe the line, shut up and accept their lot in life will not solve these problems, and pretending these problems of society don't exist won't wash either.

Unemployment and destitution face youth daily. In an attempt to solve this problem with some squeegeeing, they try to solve a social problem facing them. For this they're held in contempt, criminalized and attacked. The fact of it is that the youth do have the right to think, to organize and to have a livelihood despite the attacks they face from this old society.

Squeegeeing is actually working for some money, trying to survive. For this the youths are criminalized. When conditions exist where their rights as human beings or the collective rights of youths are denied, certain things occur. When their rights for a livelihood, shelter, education and so on are violated, they will aggressively demand and affirm that society has a social duty, a social responsibility to guarantee their needs to live as human beings. They will organize themselves into squeegee squads and work for some money to buy food, and establish their own work rules. There is nothing

wrong with the behaviour of the youth. They are simply demanding to live. They are not the troublemakers.

This legislation seeks to create an atmosphere where the youth question nothing, where they don't think for themselves, where they consider themselves criminals and have no bright future. It is the spirit of the youth to have their own conscience, their own thinking, and to be exuberant, rebellious, to have a spirit of resistance and rebelliousness against the status quo. This is a factor, this is a symptom of being youthful, and this cannot be quashed by this legislation.

To hide the fact that this old Ontario society is unable to sort out any problems facing society, there are those who seek to create a diversion. Small businesses face economic difficulty. Big businesses like Eaton's go under and are gobbled up by the competitors. The economy cannot provide for everyone. Only the rich and the debt payments are considered.

An economy which has not and cannot provide and guarantee human rights for the people is not a strong economy. What sort of strong economy creates a destitute people? To divert from this, beggars and squeegee kids are set up as being the problem. They are attacked and scapegoated. Their problem is this old society and its economic system. When the squeegee kids and others in society organize themselves to defend their rights, they're considered a problem, a concern for the rich corporations, banks, a concern of this government.

Cleaning the streets of beggars and squeegee kids and those who fight for their rights does not show the warmth of the Ontario people. Squeegee kids and beggars are marketing for tourists and tourist dollars just what type of great province Ontario actually is. They show to a monied tourist just what kind of strong economy Ontario has. Squeegee kids and beggars show what the natural destination for people is once health, education and social programs are cut, reduced and eliminated. Hiding this won't heal this festering wound of decay.

When legislation is imposed on the youth and the poor without the beggars' and squeegee kids' participation, in the name of "for their own good" or "for the good of society," then such rules will not be respected nor will such rules be defended. The youths' spirit of resistance will be inspired and this is what will get them through the coming desperate straits.

They will take the responsibility to organize themselves in order to fight for a society to recognize and guarantee their needs and rights, and for a society to meet these claims made upon it. These are the real people, these are the real heroes of Ontario and of Canada, these are the people to which a democratic society will listen.

Just on a question of democracy, a fundamental, democratic principle is that 50% plus one of a vote is a majority. There is no political party in power on the basis of near this number of votes. The present Ontario government is in power with less than 25% of the eligible voters' vote. It really doesn't have any legitimate democratic right to govern us.

**The Chair:** We've got about a minute left in the presentation.

**Mr Herbert Joseph:** Good afternoon, and thank you. I am Herbert Joseph, an allied independent of Hamilton Against Poverty, an aboriginal activist, and I am now a native social advocate and a victim.

I am a victim in at least two ways: culturally, and I am poor. During the preceding and current provincial mandate, I can see no positive social change on either issue. Poverty is a structural, political problem, because it is through draconian measures such as those currently undertaken by the current provincial government that the poor can only become destitute while the rich become an aloof elite.

Measures such as workfare and non-policy directives on child poverty are waves that attempt to drown us, and proposed policy directives such as the proposed mandatory drug testing and the forced elimination of welfare fraud from the welfare system will not only exacerbate the problem, they will create a new criminal element in our society.

This proposed legislation, Bill 8, will deprive the least worthy of their basic inherent right to shelter, food, housing and all. It is so because the destitute must find some means to survive, and those means include begging in the richest province in Canada. The poor have to be masters of survival, and those other means may also include people like the squeegee kids.

At its basis, it is an entrepreneurial spirit, a method of gaining income by any means, including the constitutional right to economic subsistence, which is also a basic right. Poor people need work no less than the affluent, and when they find work, even at a minimum-wage level, which is too low, they need transportation. If they are on welfare, they cannot afford the luxury of transportation. If they are not on welfare, generally, they must wait three weeks for their first pay. Their solution? They hitchhike.

**The Chair:** I've gone over about a minute and a half now. I'm going to have to thank you for your presentation. We have another group that wants to present. Thank you for coming here today.

The next group is the Community Social Planning Council of Toronto. They have a video and we're going to start—

**Mr Joseph:** Why am I being denied? I have a right.

**The Chair:** Your group already spoke for 12 minutes; that's more than other people. Can we continue? Is there a Community Social Planning Council of Toronto?

*Interjection.*

**The Chair:** You've taken more than the other group.

**Mr Joseph:** Can I have a call of the table?

**The Chair:** We have the Community Social Planning Council of Toronto. If they're not here, then we'll proceed.

**Mr Joseph:** I have a constitutional right to speak for myself and my people and the destitute of the province. I believe this is a democracy.

**The Chair:** Can we have the group for the Community Social Planning Council of Toronto proceed?



**Mr Kormos:** The man's point is well made, Chair.

**The Chair:** We're over your presentation. I gave you an extra two minutes. I apologize, but that's the way it is.

*Interjections.*

**The Chair:** You know, other groups would like to present here today.

**Mr Joseph:** Are you denying my constitutional rights as an aboriginal?

*Interjection.*

**The Chair:** No, you're not.

**Mr Joseph:** It's my privilege to speak here.

**The Chair:** You've had more time than any other group.

*Interjection.*

**The Chair:** You've already surrendered two minutes of your time.

*Interjection.*

**The Chair:** OK. We're already over. You want two more minutes, I'll give you two more minutes. It'll come out of the other groups' time.

**Mr Joseph:** I'll attempt to make it as brief as possible.

Under the proposed changes to the Highway Traffic Act on commercial activities on highways, roadside vendors and the art sellers could be prosecuted for indirectly attempting to stop a motor vehicle for the purpose of selling a commodity. I realize that this is intended to curb prostitution, but I question how many of those prostitutes are single mothers or others forced into this trade because social assistance does not provide the basics of life.

Likewise, under the proposed policy directives, people removed permanently from welfare may find it's their only means to an income. How will all this legislation affect natives on and off reserves? Without public transportation on reserves, they must hitchhike. For extra income, we have yard sales. We are a communal society and do ask community members for money etc. What of our constitutional rights?

Whatever happened to just cause, due process of law and other formal and conventional rights of all Canadians? All of these policies tabled are badly flawed. I cannot ask my friend for a cigarette, and if I do without being caught, I cannot walk behind, beside or in front of him or her. At the outset, I said I was a victim. Under this Conservative government, Dudley George was a bullet-riddled victim.

In a similar manner, my friends and family in modern life of all stripes and colours are victims, and although they don't die under gun fire, they die and will continue to die a slow, agonizing death in boxcars. There are pregnant women screaming their agony in silent alleys and government apathy at the legislation that further criminalizes and dehumanizes them for being poor.

We are reduced to begging, and the legislation crushes that. Single mothers who sometimes turn to prostitution to feed their children will become criminals. Welfare recipients are ordered to find work; they create it by squeegeeing, then are outlawed. Also, those who find work are forced to hitchhike to their place of employment

and because of this legislation will lose their jobs. We do not need further legislation like this. What we need is political moralism in the structuring of psycho-social policies that will activate the constructs of sociopolitical rights so that democracy is not a shadow box in the halls of the Legislature.

We need to recognize that human rights are not just the right of the elite but of all Canadians. We need the government to recognize there's a need—

**The Chair:** Sir, how much more? That's two minutes now.

**Mr Joseph:** —and address it positively. Without that, we will become a ghetto of a new Third World in Canada. We need this legislation redrafted—

**The Chair:** OK. We'll proceed with the next group.

The next group coming forward is the Community Social Planning Council of Toronto. Will you let the next group proceed, sir. There are people who want to make a presentation here. Thank you. Is the Community Social Planning Council of Toronto here?

1710

**Mrs McLeod:** On a point of order, Mr Chair: There were number of I think very important points made during the last presentation in referring to increases in homelessness, increases in the province of panhandling as a result of the cutbacks for social assistance. I would very much appreciate knowing either from the parliamentary assistant or from legislative research whether there is research that is available, data that are available that would document the increase in both the homelessness problem and the increase in panhandling in the period of the last five years. I would certainly expect the government would have some data available to this committee to support the need for this legislation.

I would appreciate any material the government has that would reflect on the incidence, the concern they have about a growing incidence, to be tabled with the committee, as well as any information legislative research might be able to obtain from the presenters giving us the same kind of background data for the committee.

**Mr Martiniuk:** I assume you want material on the incidence. You said "growing incidence"; even if it's under you'd want that too, I assume. Any variance over the last five years of the incidence of homelessness—

**Mrs McLeod:** Yes, and of panhandling. The bill deals with panhandling and therefore I assume the government has some documented evidence that there is a growing problem with which we should be concerned.

**The Chair:** With all respect, we have a presenter here. Could we deal with that after we've had the presenters?

**Mr Martiniuk:** I will attempt to determine if the government, our ministry, has material showing the incidence of homelessness over the last five years. As this bill is not against panhandling, I don't know what the relevance of that would be. It's only aggressive panhandling the bill addresses.

**Mrs McLeod:** With respect, Mr Chair, and in response to the parliamentary assistant, I have a great deal of respect for the fact that we have another presenter and

I'm also aware that as of this point in time I don't believe the committee has been informed of any further presenters that are to be heard after the 5:20 time slot and I would appreciate knowing that.

**The Chair:** I'd like to proceed with what we have. Can we have the Community Social Planning Council of Toronto? Let's proceed.

**Mrs McLeod:** Mr Chair, I am a duly—

**The Chair:** Ma'am, I'm running this committee. I'd like to hear this right now. Let's hear this presenter.

*Interjection.*

**The Chair:** Can't we hear the presenters?

**Mrs McLeod:** I thought I was doing it on a point of order. Mr Kormos has raised it. I'm allowed to raise points of order.

**Mr Kormos:** On a point of order, Mr Chair: Ms McLeod has raised a point. I'm eager to hear her finish it. It's the committee—

**The Chair:** I don't know what her point of order is. She has made a request for information. What's your point of order?

**Mrs McLeod:** My point of order, Mr Chair, is that if we're going to be spending time with the committee, I would like to know who the further presenters to the committee are. I would like to know as you press that, the withholding of our points of order and the seeking of information which is relevant to what this committee is dealing with, why you are putting us under this kind of time pressure, because at the present time I see the agenda only extending to 5:40.

**The Chair:** Can I speak? We have three more presenters and there's someone else who wants to present; The Canadian Unitarians for Social Justice is another group that wants to present.

**Mrs McLeod:** Are we adding them to the agenda, Mr Chairman?

**The Chair:** Well, I don't know. The way we're going right here I don't think so because we're not going to get these presenters through.

Can we have another presenter? Do you want to start, sir?

#### COMMUNITY SOCIAL PLANNING COUNCIL OF TORONTO

**Mr Peter Clutterbuck:** My name is Peter Clutterbuck of the Community Social Planning Council of Toronto, an independent social research policy group. We've been an organization for more than 60 years.

I have distributed to you a report we did last year on this issue. It was over a year ago this past week that city council considered the same material you're considering essentially, what to do with the issue of squeegee kids after a very hot summer in 1998. I'm proud to report that they did not take the primarily punitive approach; they actually took the approach of voting a quarter of a million dollars into a diversion program to help community groups reach out to kids on the street to help them

discover other choices and get other supports, as opposed to beating them off the street.

We did this report, a survey of 85 young people, last year. We also produced a videotape, which is very important. I think it's important, like the previous presenters, for people who know the experience most directly to actually talk to you. Since a lot of these people who will be on the videotape are not comfortable in this kind of setting, I'd like to show you five minutes of this videotape and then leave it with you perhaps for your further study later, and maybe make some concluding comments after that.

*Video presentation.*

1727

**The Chair:** Thank you for your presentation.

**Mr Clutterbuck:** I did have more, of course. I decided it would be best to show the whole thing. I think it's best that people spoke with their own voices. The real problem is in this videotape, which is about the problems of homelessness and youth: drug problems on the street, lack of educational opportunities, lack of employment. The squeegee issue is a surface issue. I hope the committee will also study this videotape because it goes to the underlying causes around which I think this Legislature has more useful time to spend.

**The Chair:** Thanks very much for your presentation. I appreciate it.

#### NATIONAL ANTI-POVERTY ORGANIZATION

**The Chair:** The next group we have is the National Anti-Poverty Organization.

**Mrs McLeod:** Mr Chair, may I just ask, since it is not quite 5:30—we have 35 minutes left—will we be adding the Canadian Unitarians for Social Justice?

**The Chair:** We've got 30 minutes left and there are two presenters and we've got a vote at 5:50, so we're not going to get these two in.

**Mrs McLeod:** So you're saying that the Canadian Unitarians for Social Justice will not have an opportunity to present today?

**The Chair:** It appears so. Can we can start with this group here, the National Anti-Poverty Organization? We have Laurie Rector, executive director, and Michael Farrell, assistant director. I want to thank you for coming here. You have 10 minutes to make your presentation.

**Ms Laurie Rector:** The National Anti-Poverty Organization, or NAPO as we call it, has been around since 1971. We are a non-partisan, non-profit organization set up to represent the interests and the voices of low-income people. We have a board of 22 people across Canada who are all currently living in poverty or have significant life experience with poverty. That puts NAPO in a very unique position to be able to speak directly on behalf of poor people.

We are active in the area of human rights and poverty. Most recently we've made presentations before the Canadian Human Rights Act Review Panel and the United



Nations committees on civil and political rights and also on economic, social and cultural rights.

NAPO is also currently challenging two cities' bylaws against panhandling: Winnipeg's and Vancouver's. We're also providing support to a challenge to the city of Ottawa's anti-panhandling bylaw.

It's unusual for us to be here. I don't know that in the history of NAPO we've ever made a presentation to a provincial government committee. The fact that we're here is a testament to how seriously concerned we are about the issue of the proliferation of anti-panhandling legislation.

Most of what I have to say will focus on the anti-panhandling elements—it's hard to speak when I don't have the attention of the committee members. I know it's late in the day but we did put a fair amount of effort into our presentation today.

**The Chair:** OK. Proceed.

**Ms Rector:** Thank you. Most of my comments will be about the anti-panhandling elements of Bill 8. I have one comment only on the squeegee element. I'm happy to follow the videotape we just saw. Two things about squeegee kids: One is that we tend to forget that they're children, and how and why it is that we want to make criminals out of children is beyond me. The second part is that I think they're to be applauded for an innovative and creative approach to dealing with their poverty and the lack of real employment options that they have. They've identified a market niche, they've made themselves self-employed and they're finding a way to deal with their poverty. I suspect we would be applauding and congratulating them if they were members of Junior Achievement and wearing little suits and ties and offering to clean our windshields.

Now I'll speak to the anti-panhandling part of this bill. As I mentioned before, NAPO feels very strongly about the proliferation of legislation against panhandlers and beggars and we're certainly very concerned with the introduction of a province-wide bill. We perhaps agree with the drafters of the legislation that the presence of beggars on our streets is not a good thing, but our answer to this concern follows a radically divergent path from that followed in this bill.

Bill 8 is a shameful, albeit carefully worded, piece of legislation. NAPO finds very disheartening the resources and energies that have been dedicated to make poor people into criminals and sweep their poverty out of our collective social gaze. We would hope, rather, to see similar energy and resources put into humane and constructive ways to answer our growing crisis in poverty.

We find it ironic that the bill is called the Safe Streets Act. To date there's no substantive evidence that points to the fact that panhandlers or squeegee people pose a danger to anyone. The real danger is to the individuals and the people who are surviving on the streets. We know the toll it takes on their health, both mental and physical, and we know that ultimately people die from being this poor.

NAPO believes that as carefully worded as this bill is, it is discriminatory and anti-poor in nature, and its intentions are actually quite clear. The definition of "aggressive manner" is written so that it would in effect ban any form of begging province-wide. The definition reads that it would be considered to be aggressive if a reasonable person would likely feel concern for his or her safety or security.

The government of Ontario has worked long and hard to create in the general public an intolerance for and fear of poor people. As a result, many people actually feel quite uncomfortable when they are faced with abject poverty. Many would rather not know that poor people exist. It is a small leap then to anticipate that the presence of a person quietly sitting with their hand or hat outstretched would be considered a threat to someone's security or safety. In fact the existence, if there would be ultimate passage, of this bill would make it even more OK to react this way, to feel hatred for poor people rather than the shame and discomfort that our society has created such depths of poverty.

I'd like to illustrate with a short example of perception, which is where a lot of the work is that we do, and a lot of how we benefit from the voices of the poor people sitting on our board of directors. This is an example that actually comes from my board president. She noted that an element of the anti-panhandling legislation bylaw included is to restrict certain geographic areas like a bank machine or a bus stop or something like that because people are likely to feel more threatened there. She talks about someone coming home from a baseball game and standing at a bus stop holding their baseball bat in hand and they're not perceived as a threat, but somebody who is so poor that they're begging to survive is somehow frightful to us.

We have a short document—I don't know if it's been handed out to you—of three or four pages. I know your timelines are short so we kept our document short. In it we raise four basic concerns with Bill 8. I'll just touch on three of them.

One is that—most speakers this afternoon have spoken to this—the bill itself does nothing to address the real and root causes of poverty. I spoke at the beginning that we would much rather see the resources being put into drafting this type of legislation being put towards real and long-standing solutions to poverty.

The second is that the bill restricts interactions between non-poor and poor people. In fact, it cuts people who are poor out of our collective consciousness. It also takes away the right to give to one person directly, one to another. This is a long-standing right in most religious faiths, and certainly part of our society's background as well, to be able to give charity, one person to another.

The third area of concern is that this bill creates the opening to arrest without a warrant. In this particular bill, poor people are the first target. Our concern is where to from here, in addition to the fact that it's certainly not OK or acceptable to us to see that people would be arrested simply because they're poor. It doesn't take a

great leap of logic to know that likely someone who's living on the street isn't going to have sufficient identification.

The fourth suggestion is one about regional or local answers to the issues of panhandling and squeegeeing and how this bill takes away the right of local areas to do that.

I just wanted to say one thing briefly in closing. Sitting where we sat at the back of the room for the afternoon, we were quite heartened to see that most of the people speaking about this bill were speaking against it, and against what it stands for, and that they did so very articulately and very well. I would like to ask this committee to carefully consider that fact—who appeared before you—and to consider that in light of the fact that in our society it's increasingly difficult for the poor to have a voice and for that voice to be listened to with respect. You have before you this afternoon a majority of people speaking on behalf of some of Ontario's poorest citizens. I would really hope that you would think about that long and hard when you're deciding what to do with this piece of legislation.

**The Chair:** We've got about 30 seconds for each caucus. Would you like to continue to talk on this? You've got suggestions on your paper.

**Ms Rector:** I'd rather have questions, if there are any.

**The Chair:** We have 30 seconds. We'll start with the opposition.

**Mr Bryant:** What, in your view, will happen in the event that this bill is passed? What's going to be the consequence? What's going to happen to the people?

**Ms Rector:** Poverty isn't going to go away as a result of this bill. In fact, what we're going to do is make criminals of people simply because they're poor. We're going to put them in jail, we're going to create more hardships in the lives of these individuals and we're going to say as a society that's an OK way to be. The next step from a bill like this is somewhere I don't even want to try to imagine today.

**Mr Kormos:** I think you'll recall the one comment on the videotape by the squeegee kid who said, "I wish politicians could be"—the irony is that the minimum wage here is \$78,000 a year. Most of the people on this committee make parliamentary wages in excess of that. Some of the people on this committee have private incomes in addition to those parliamentary salaries. So I'm sitting here with a group of very middle-class people—all of us, myself included, have a minimum wage of \$80,000 a year; we're in the top 5% of income-earners—and we're trying to talk about the realities of life for people forced into homelessness and into poverty, whose monthly incomes don't equal what any member of this committee could well spend on a Saturday evening at Bigliardi's or any other steak house in the community.

**Mrs Tina R. Molinari (Thornhill):** Thank you for your presentation and for taking the time to come out today. Just a point that you mentioned about us forgetting that they are children. Watching the videotape I also noticed a lot of children. In a previous presentation, Staff

Sergeant Ken Kinsman gave us some statistics from the division he works in. He said 101 of the 333 squeegees are female and 230 are male. He said that for the females the age ranges from 15 to 41, and for the males it's from 16 to 60 years old. Do you have any comments on that?

1740

**Ms Rector:** I can't comment statistically on the data that he collected. I understand it was collected only in one part of Toronto, and also NAPO hasn't done extensive research yet into the issue of squeegeeing, so I would stick with—we know that the majority of people who are squeegeeing for an income are children, and to take that into consideration when we're looking at ways to deal with the poverty that they are living in.

**The Chair:** Thank you very much. I appreciate your presentation.

#### YONGE BLOOR BAY ASSOCIATION

**The Chair:** Our next group to present is the Yonge Bloor Bay Association. Margaret Knowles?

Thank you for coming, Margaret. You have 10 minutes.

**Ms Margaret Knowles:** Thank you for having me.

I think I must be in a minority after hearing that most of the speakers who have spoken ahead of me have spoken against this bill.

You have my brief. I'll speak to the brief and some of the key points.

Our organization, which represents businesses particularly and also has the president of GYRO, which is the Greater Yorkville Residents' Association, on our board, has a lot of things in common with many of the groups that have spoken. The one thing we don't have in common, and I think you have to understand very carefully, is that our businesses and residents, in an area that is particularly hit upon by squeegeers and aggressive panhandlers because it's seen as the tony end of Toronto—our businesses are faced with the highest tax rates in this province and many of our businesses are struggling. They're not great, huge business people who can afford to have customers turned off by what they see going on in the streets. That's number one.

Number two, I respectfully submit to you that, as far as I'm concerned, the organizations and the bureaucracy that support poverty in this province are the people that are calling the homeless and the poor criminals by this legislation. Believe you me, we witness it every day. We have stood on the corner of Yonge and Bloor and watched the panhandling and the squeegee activity there. These are not the homeless and the poor in Toronto—not the true homeless and poor in Toronto. From our point of view, the legislation that is being proposed is simply a first step in what has to be a real initiative by this government and all of you, whatever party you're in, to put aside your party ties and really attack the issue of homelessness and poverty in this province, because it's not going to happen by defeating this piece of legislation.



This legislation has nothing really to do with poverty and homelessness. It's got to do with activity that is threatening and intimidating. If you read the brief, there are a lot of examples in the brief of what goes on on a daily basis in our community. We have shop owners who have to remove human excrement every morning to open up, and sometimes have to have the police come to move bodies out of their doorways. This happens at Avenue Road and Bloor—you know what the rents are, you know what the taxes are—and these businesses employ people. There are women who are working in these businesses who, when they are leaving a night shift, are afraid to leave. They are not afraid of homeless people or poor people; they're afraid of people who threaten and intimidate.

I'm sorry, but I've stood and watched squeegeers at Yonge and Bloor, and who do they pick on? Mainly they pick on women, who never say no because they are intimidated and they give them money.

I have a squeegee guy who lives down the street from me. He is young, but he's not that young. Sure, there are a lot of kids who are doing this activity because it's a neat way to make some pocket change and they're part of a subculture that exists, that's out there, that's all connected with freedom from any of the other ties that the rest of us have, like paying taxes, like paying your dues.

All we're asking for is, give us some relief from this in our business community and for our residents. Many of our residents in Yorkville are seniors. They're people, just like you and I are going to be, who left their homes and who want to be in the downtown core to attend theatre or plays or whatever else. They have every right—they paid their dues, they fought the wars, they paid their taxes and they've contributed to this country.

What I'm stressing is, don't criminalize the homeless and the poor. That's not what this is about. If you guys want to know what's going on, you get out there and you watch it. You operate a business on Bloor Street and see what it's like when tourists tell you they're not coming back to Toronto. This isn't what they thought Toronto was all about. They're not going to shop on Bloor Street any more; they're going to go to Yorkdale or Square One.

There are a lot of businesses on Bloor Street, Holt Renfrew—I happen to manage the Holt Renfrew Centre—which are big contributors to charity; Manulife, all the rest of them that are up there that support this city, that support this province, that contribute to charities, who do lots and lots of really good works, and not once have I heard anybody, either from government or any of these organizations, ever say anything good about what business does in this community, and the residents as well in our area.

I think it's really important to focus on what the real issue is here. The real issue is the ability of people to walk down the street and feel safe, and that just doesn't exist any more in our end of town.

This brief brings examples to you of the kind of thing, as I said before, that goes on on a daily basis. One of the things I didn't mention is that people in our area are assaulted. The police can give you the statistics of the stuff that gets reported, but people are assaulted. Shop owners have been shoved around.

I'm sorry if I'm boring you but I'm just trying to present the facts here.

It's great for social workers and planners, people with the poverty coalitions and organizations, to get up and tell you and show you videos. We could show you a video too. It's not quite as attractive as this video. It may not be quite as manipulative in terms of presenting you with a face to the people who are out there that's wholesome and looks like, gee, if only they got a break they would be able to keep down a job. That's my point. Most of the kids who are out doing the squeegee activity and the young adults who are out there doing this activity and the aggressive panhandling are fully capable of holding down jobs. You've heard that they're smart. That was on the video. You've heard that they're bright and they've got all the answers. If they do, as I said, get rid of your party ties and which party is supporting what and find some real solutions.

Homelessness isn't going to go away. Shelters aren't the answer. You know that. Real homes are the answer. Give some tax incentives to the people in construction and development to build real homes for people. Get rid of this nonsense of shelters, which nobody wants to stay in. I don't think any one of us, if we were in that situation, would want to put ourselves at risk in a shelter. Put some real teeth into it. If you sit back and you're trying to judge this legislation, look at it only as a first step. If it isn't quite the whole plan that you wanted to see, go forward with this at least as a first step.

It's firmly our belief that a lot of the people who are on the street right now who are carrying on the aggressive panhandling—we're saying "aggressive" here, because passive panhandling is not what's at issue. The person who said that this will put an end, as it was in Biblical times, to people being able to give to the poor is not correct. This is targeting people who are threatening and intimidating people, who harass them at bank machines where you are kind of vulnerable at that point in time.

What I'm trying to say to you is that this legislation doesn't provide the solution to the issues of homelessness and poverty. It didn't attempt to provide that. All it is is a first step just to get rid of it, clear the picture, get rid of the people who are out there who don't have to be out there and then start to tackle the real problems that are there. Believe you me, business in our area and residents in our area want to help solve those problems. This isn't a situation where big business is sitting back and sort of saying: "We pay our taxes. We give to the United Way. We don't care." We do care. We have lots and lots of people who show up for lunch and breakfast every day at the Church of the Redeemer. I don't know how many of these organizations are actively involved in Out of the

Cold programs, but our association is. So we're not talking off the top of our heads here.

We know what's going on in our area. We support our residents and our businesses and we'd like to see an end to the aggressive panhandling and squeegee activity in our area, because let me tell you something, one thing that our area does depend on, and so does the city and so does the province, is tourist dollars, and the tourists simply aren't going to come. Our area has the Royal Ontario Museum in it. Try walking down there on a summer day. Tourism Ontario could not keep young people, very much like those kids you saw in the video, working in the booths. You know why? Because of the abuse they were taking from the street people.

We have whole camps set up behind the Gardiner Museum. The Gardiner Museum I believe is an Ontario museum and yet all kinds of people camp out there. Any time you walk through that garden there are needles and human waste in the garden, and this is the picture we're presenting to tourists as well as residents in our area.

Our area is critically hit by this problem. We're very concerned. At the same time I'll make it clear again: You're criminalizing the poor and the homeless if you think and you try to portray this legislation as an attack on them. That's not what it's about. If you have any questions, I'd be pleased to answer them.

**The Chair:** It's unfortunate but we're out of time. Thanks very much. I appreciate that.

We have just one minor item, if I could deal with it. I have a request from the Hamilton Against Poverty presenters for reimbursement for travel. It's \$70.50. I put that to the committee.

**Mr Smitherman:** I so move.

**The Chair:** It's carried.

1750

#### CANADIAN UNITARIANS FOR SOCIAL JUSTICE

**Mrs McLeod:** I think you indicated that the people who were waiting to present were the Canadian Unitarians for Social Justice. I understand they are still here. I would like to move the committee hear them for whatever time we have between now and the time the bells ring for a vote.

**The Chair:** There is a motion on the floor to hear this presenter.

**Mr Martiniuk:** I would accept it within the limits of the vote coming up.

**Mrs McLeod:** I've indicated till the bells begin to ring.

**Mr Martiniuk:** He can at least start.

**Mr Kormos:** Till the bells ring.

**The Chair:** Agreement? Thank you.

Can you just introduce yourself, sir, and the name of your organization?

**Mr Douglas Rutherford:** My name is Douglas Rutherford and I represent the Canadian Unitarians for Social Justice, which is a religious organization.

Before I proceed I just want to point out—I believe it was mentioned by the last person—I am actively involved in Out of the Cold and I think it would be a good thing for everybody on this committee to come to visit us. I'll be there tomorrow night, at Bloor Street United Church, right near where that lady is, and I can tell you that the people we serve are the people she's talking about. I must say, I don't like to hear them demonized in that way.

The belief of our religious organization in the individual dignity and worth of every individual has led us to oppose homelessness, poverty and unemployment, all of which characterize street people. Criminalizing their activities will not solve the problem. Sending them to jail or levying fines can only worsen their conditions. We know that jails are breeding places of crime.

Specifically in connection with the bill, I only had a chance to look at this an hour ago, so I'm afraid I'm not as well versed in it as I might be. But looking at section 2—I'm a lawyer and I've spent 20 years working for this government in drafting legislation—I just can't believe it. Section 2 doesn't even mention the street. It talks about, "No person shall solicit in an aggressive manner." In addition to people on the street, are we talking about telephone solicitors, are we talking about door-to-door salesmen? How about street vendors, even those with licences?

My wife was aggressively solicited on the phone on the weekend by the Royal Ontario Museum. Would that make it a criminal offence? She was pretty mad too.

*Interjection.*

**Mr Rutherford:** There you are. I just think there doesn't seem to be much sense in this section. It's much too broad and my feeling is that it probably contravenes the Charter of Rights, specifically section 3; freedom of expression is covered in that section. I think certainly the government lawyers ought to have another look at this section.

Section 3 has already been dealt with very well by my friend Alan Borovoy. As Alan said, it deals with what is already adequately covered in the Criminal Code. I'm puzzled as to why that section is in there because there are sections in the Criminal Code dealing with harassment. Alan covered them all and I really don't understand. I don't believe that the government—there's more than meets the eye as to why that was put in.

Section 4: We're dealing with here the disposal of needles and condoms. My feeling is that these are things that you can't deal with on a criminalization basis. We must deal with the social conditions that cause these things. I don't understand how it could even be enforceable. Just think about it for a minute. When are these things disposed of? In the middle of the night when nobody's around. How can any policeman ever get evidence to prosecute this? This doesn't seem to be—again, I worry about the motive behind putting this in, because it certainly isn't going to reduce this problem. I sympathize with the woman who spoke, but I don't think sending the drug dealers and all these people to jail—



because we know they learn how to be even better drug dealers when they go to jail.

Our Mennonite friends here mentioned transformative justice. I'm not going to go into that but it's something I think the committee ought to look at some time. The Quakers are very much involved. There's an international conference being organized in the spring in Toronto on this matter and I think you should look into this matter because it has some important things to say about how to deal with this kind of behaviour, apart from building more jails and sending people to them.

Another thing that really concerns me is the question of arresting without a warrant. Normally this is a matter that is only dealt with in serious criminal offences. I think it's shocking that there is something in this legislation

that would allow a policeman to go out on the street and arrest a beggar without a warrant simply to get identification. That's what I think the bill talks about. Again I think this is an area where section 8 of the charter, which deals with unreasonable search and seizure, could well be invoked to strike down this section.

Finally, I think the government is using this bill to duck its responsibility to deal with the underlying social conditions that create street people. The current reduction in social services of this government is worsening the situation as well. Many thanks.

**The Chair:** I want to thank you, sir.

We're going to have to adjourn now until 3:30 tomorrow.

*The committee adjourned at 1757.*

## **STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY**

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Mrs Brenda Elliott (Guelph-Wellington PC)

Mr Garry J. Guzzo (Ottawa West-Nepean / Ottawa-Ouest-Nepean PC)

Mr Peter Kormos (Niagara Centre / -Centre ND)

Mrs Lyn McLeod (Thunder Bay-Atikokan L)

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford PC)

### **Substitutions / Membres remplaçants**

Mr Gerry Martiniuk (Cambridge PC)

Mrs Tina R. Molinari (Thornhill PC)

### **Also taking part / Autres participants et participantes**

Mr George Smitherman (Toronto Centre-Rosedale / Toronto-Centre-Rosedale L)

### **Clerk / Greffière**

Ms Susan Sourial

### **Staff / Personnel**

Mr Avrum Fenson, research officer, Legislative Research Service



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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 30 November 1999

# Journal des débats (Hansard)

Mardi 30 novembre 1999

**Standing committee on  
justice and social policy**

Safe Streets Act, 1999

**Comité permanent de la  
justice et des affaires sociales**

Loi de 1999 sur la sécurité  
dans les rues

Chair: Joseph N. Tascona  
Clerk: Susan Sourial

Président : Joseph N. Tascona  
Greffière : Susan Sourial



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Tuesday 30 November 1999

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mardi 30 novembre 1999

*The committee met at 1601 in 151.*SAFE STREETS ACT, 1999  
LOI DE 1999 SUR LA SÉCURITÉ  
DANS LES RUES

Consideration of Bill 8, An Act to promote safety in Ontario by prohibiting aggressive solicitation, solicitation of persons in certain places and disposal of dangerous things in certain places, and to amend the Highway Traffic Act to regulate certain activities on roadways / Projet de loi 8, Loi visant à promouvoir la sécurité en Ontario en interdisant la sollicitation agressive, la sollicitation de personnes dans certains lieux et le rejet de choses dangereuses dans certains lieux, et modifiant le Code de la route afin de réglementer certaines activités sur la chaussée.

**The Chair (Mr Joseph N. Tascona):** We'll bring the committee to order. I believe, as in the subcommittee minutes, we're going to have 10-minute presentations from each party. Let's start off with the government member.

**Mr Gerry Martiniuk (Cambridge):** Thank you, Chair. First, we have received a memorandum regarding some statistics for homelessness and panhandlers from the research officer as a result of Mrs McLeod's request for information, and I would transfer that to the Liberal caucus.

This bill has absolutely nothing to do with homelessness. It has nothing to do with panhandling. It has all to do with preserving our public places. It has to do with safety, freedom from harassment and freedom from disorderly conduct.

I recall that our old friend Sir Robert Peel, the founder of modern policing, when he discussed policing, one thing he said as one of his nine principles was that the basic mission for which the police exist is to prevent crime and disorder. We seem to have forgotten the second part: disorder. That is exactly what this bill is meant to address.

The government of Ontario believes that people in this province have a right to use public places in safety. They must be able to drive on the roads, walk on the sidewalks and use neighbourhood spaces without being or feeling intimidated.

This is one simple way that citizens measure their quality of life. They want to go shopping or take their

children to a park or just go out for a stroll after seeing a show without hassle. They don't want to worry about encountering behaviour that poses a safety hazard, and yet this is exactly what is happening in Ontario.

Activities such as aggressive solicitation, squeegeeing and the disposal of dangerous objects in parks have compromised the safe use of public places.

In 1998, ordinary citizens and police shared their concerns with the Ontario Crime Control Commission. Drivers said that when they pulled up to intersections, their cars literally would be surrounded by squeegee people. Squeegeers would clean windshields without permission, moving in and out of traffic and endangering themselves and the people in the cars.

We heard from parents who said that when their kids play in parks or even in their own schoolyards they have to dodge broken beer bottles, hypodermic needles or used condoms. Children should not have to do that. They should be able to enjoy playing outside without being at risk from dangerous objects.

No vulnerable person, especially the elderly, should have to worry about getting past people who are aggressively soliciting on the sidewalk.

The people of Ontario deserve better than that.

We know from the media that these problems are being experienced across the province, in places like Kingston, Toronto, Ottawa, Oshawa, Hamilton, London and Peterborough.

Police do their best to serve and protect their communities. They tell us that they have been receiving complaints from residents and businesses about squeegeeing, aggressive solicitation and similar activities. However, when the police try to deal with these problems, they find that the current laws are not adequate. The main tool for policing—ticketing—is ineffective on its own.

We have a situation where people are experiencing a problem in the safe use of public places, having to ask police to do something, and the police find they do not have the powers they need. What do they do? They ask the government for action, and rightly so.

The Ontario Association of Chiefs of Police passed a resolution at its 1998 annual general meeting calling on the government of Ontario to make squeegeeing and aggressive panhandling an arrestable offence.

Our government promised in the Blueprint and the throne speech to introduce legislation to stop these activities and we have lived up to our promise with Bill



8, the Safe Streets Act. This bill is a sign of our commitment to ensuring that Ontario's communities are safe places in which to live and raise families.

If passed, Bill 8 would accomplish several things. It would amend the Highway Traffic Act to capture squeegeeing and other commercial activity on the roadway as an offence. It would create new provincial offences, namely, soliciting in an aggressive manner, soliciting in places such as at a bank machine where a person solicited cannot easily move away, and disposing of dangerous objects such as syringes in outdoor places, without taking reasonable precautions. If passed, Bill 8 would give police the power to warn or arrest offenders and it would enable the courts to impose fines, probation or jail for persons convicted of these offences.

We want the Safe Streets Act, if passed, to be an effective and useful law. It is important to this government, as it should be to anyone who values community life, that Ontarians are safe and feel safe in public spaces.

It is unfortunate that some people who see the problem and understand its impact on community life want us to leave things as they are. They would have us leave the police ill-equipped to handle these kinds of unsafe behaviour. That is simply unacceptable.

Yes, there are complex reasons why some people engage in activities such as squeegeeing and aggressive solicitation. Yes, many of the underlying causes relate to social issues. We acknowledge that. However, government programs are available to guide such individuals into activities that offer more hope and a better future.

The Safe Streets Act proposes to establish boundaries for behaviour so that community life can be enhanced for all. Our government is doing what needs to be done to protect the safe use of public places.

I am proud to be part of a government that takes leadership seriously and which responds in a responsible way to matters of public concern.

**The Chair:** Thank you, Mr Martiniuk. Next up is the official opposition.

**Mr Michael Bryant (St Paul's):** This bill is the first bill put forward by this government on the issue of criminal justice, on the issue of the safety of our streets. I've said before in the House and I'll say here—nobody has disagreed with me to date—that it is the flagship of the safe streets policy of this government. In that regard, with great respect to the bill, it is a joke.

The bill is going to shoo squeegee kids from one street corner to another. How do I know that? Well, I did my homework. I looked at the example of what happened in Montreal and the laws that were passed in the city of Montreal. The experience was that if you send police out to regulate squeegeeing and panhandling and you use the blunt regulatory tool without more, what will happen is that you will simply shoo the squeegee kids and the panhandlers from one street corner to another.

1610

The better approach, and the approach that has been taken in other jurisdictions, is one in which a combined

effort is made not only on regulatory grounds but also through diversion techniques, the use of government agencies and workers and the creative use of courts and prosecutors and police, but also government agency workers to try and get assistance for people who want assistance.

Now, as with any sector of our society, there are going to be people who refuse to co-operate and refuse assistance and refuse a leg up, as it were, but by conceding, as this government does, that there is only one approach, and that is one which appeals to the lowest common denominator, the government has abandoned all those opportunities to actually be successful in cleaning up the streets.

I, for one, think it is government's job to play a role in keeping our streets safe. In response to that, the best case for the bill was made by Ms Knowles for the Yonge Bloor Bay Association, when she referred to the bill as a first step. Her argument—and I've heard Ms Knowles's argument not only in this committee room but outside this committee room—is that it's better than nothing. In fact, that's not true. It is worse than the status quo, for this reason: If you provide only one route—and the police are provided one route here, and that is arrest, detention, and then theoretically they'll go in front of a justice of the peace or a Highway Traffic Act judge and be sentenced—then it's the equivalent of imposing the sentencing regime before you impose the conduct you're trying to forbid and the conduct you are trying to promote. So the first step isn't going to work because the second step is such a waste of time. Talk to any prosecutor, talk to any prosecutor in the Highway Traffic Act court or in the provincial offences court, talk to any justice of the peace, talk to any crown attorney and they will tell you that they are not going to vigorously pursue these cases. They are going to send these people right back out on to the street.

I'm not proposing for a moment that we just give in and that we take this anarchical approach and say, "Well, there's nothing that can be done; therefore we will do nothing." I'm not saying that at all. I'm saying that the government had an opportunity to look at what was done in the city of New York and the city of Vancouver and to adopt the best practices and do something constructive instead of what's happening, which is that these people are going to be shooed in through one police car door and shooed right back out through the other. And they're going to be back on the streets a year from now, as per Montreal.

It's interesting that even those who spoke in favour of the bill were critical of, to use the words of Ms Knowles, criminalizing the homeless and the poor. "Find a real solution," she said. "We have to create incentives for the construction of housing," she said. "We need solutions for homelessness and poverty," said Ms Knowles, who spoke in favour of this bill.

As I said to her and as I'll say to the government again, there's nothing in this bill which addresses any of those items. I don't need to tell you about all the

submissions before this committee to the effect that the bill is not going to work, that the bill is the wrong approach. Mr Borovoy said that the bill is mean and silly, and a number of other groups said that there are people in the cities of Ontario who need assistance of government, and this is certainly not going to provide them with assistance.

Presumably we want to provide these people who are on the streets with alternatives, better alternatives than the one they have. The Attorney General has said as much before. He has said: "We as a society and we as a government just can't let people lie on a grate or under a bridge. We have to do something to help them." Well, this is not doing anything.

It is the concession by this government that changes need to be made to the Mental Health Act that I find the most unconscionable, because the concession means that knowing full well that there are people out there in the streets who need treatment and who need assistance from the government through changes to the Mental Health Act, this government has gone forward with a first step of what? Incarceration or fines for the mentally ill. Instead of first amending the Mental Health Act, instead of first providing some better alternatives, this government is committed to incarcerating the ill, incarcerating the sick, incarcerating the homeless.

The joke of the bill is that no justice of the peace is going to incarcerate somebody for a squeegee offence. No justice of the peace is going to incarcerate somebody for asking for money. So we're not going to be any further ahead. Some may, if they have rap sheets, find themselves with a criminal record, and as a result of that, they are going to be in a worse position. They are not going to become productive members of society and the taxpayers that I know this government—or I hope this government—would want them to be.

Lastly, making used condoms, used syringes, broken glass and people as the target of the same bill is offensive. These people are not garbage to be swept from our streets. This garbage needs to be cleaned out of the parks and off the streets, and there's nothing in this bill that will do that. In fact, I'm quite concerned that those responsible citizens who do provide safe means of disposing, other than through public means, such as the Starbucks on Queen Street across from CITY-TV, may be liable under this act for either aiding and abetting or otherwise disposing under the provision. I'll speak to that in a moment.

So the bill is not going to work. The bill is an insult to the intelligence of Ontario voters. We will see a year from now that there has been no solution, that there has been a furthering of the problem, and that all of those who came in here, but for a couple of those who made submissions, will unfortunately—and it will not be a proud moment for me, I can tell you—be right, that you can't sweep people under the streets. This is the sweep-it-under-the-rug act, and we will not support it. As we heard from the standing committing submissions, it is not supportable.

**Mr Peter Kormos (Niagara Centre):** Mr Bryant and I concur. He speaks of the bill as an insult to the people of Ontario, but this process has been even more insulting, one reflecting on the people who were here yesterday, people like Alan Borovoy, whom I've known for over 30 years now, who is the dean of civil liberties law in this country and acknowledged internationally. To bring Alan Borovoy of the Canadian Civil Liberties Association before this committee to tell him that he has but 10 minutes to address this legislation, which has serious repercussions when it comes to civil liberties, is an insult.

And that quite frankly goes for each and every presenter who was here, each and every one of them, who had but 10 minutes, and in the largest number of cases, because of that serious time restriction members of the committee were denied any opportunity to try to flesh out what it was that those people had to say, all of them with important things. I thank all of those people.

1620

Let me address in particular, because I recall Mr Martiniuk's motion which effectively restricted the right of opposition members in combination to select witnesses: At the end of the day, the government had but three witnesses who the government hoped would support the legislation but who fell far short of doing that. Please, Mr DeFaria, recall the submission by the Yonge Bloor Bay Association. Let me tell you, I'm familiar with the area—I don't shop there frequently but I'm familiar with it—and I have every sympathy for those business people. You know, as a result of your professional background—let's go through the list of grievances.

Drinking and fighting in the back laneway: Far be it for me to express an opinion about criminal law, but I think some might refer you to the sections of the code that deal with causing a disturbance in or near a public place.

Next incident: Surely assault and threatening fall under the Criminal Code.

Next incident—Mr DeFaria, if I'm wrong, say so—surely assault by trespass is a somewhat obscure section of the Criminal Code but one which would be utilized as well as trespass itself, and the right to remove by the police.

In the final incident illustrated, Mr DeFaria, surely you know that this can be intercepted by way of police intervening using the long-standing legislation against public intoxication which permits the police to arrest people who are intoxicated in a public place.

Although I have great sympathy for that organization, clearly your legislation doesn't deal with it, Mr DeFaria, and clearly the failure of the community to respond to those serious grievances is a responsibility of your government's underfunding of policing and failure to provide adequate resources to police so that they can use the existing Criminal Code to deal with those particular issues. If you haven't been able to do it with the Criminal Code, how in God's name are you going to do it with this bill? It's not a matter of the legislation not being there;



it's a matter of the right things not happening out there in the community so that police can intercept and deal with those matters to protect those business people—and I'll agree with them—from those things that they came here concerned about.

I also recall very well and I listened very carefully to the comments of Ms Orwin, and I have great sympathy for her. I know that Mr Smitherman was here and was very interested in what was being spoken of by Ms Orwin. Interestingly, Staff Sergeant Ken Kinsman in some respects dealt with some of the same matters. If the police don't have the capacity now to apprehend hookers, johns, pimps and drug dealers—Ms Orwin talked about hookers having public sex with their johns while their pimps are supervising. The police don't have the resources now, with the Criminal Code, all of those things being offences under the Criminal Code, and you know it. You as a lawyer know it. If the police can't deal with it now, what does your bill do to enhance the police capacity to respond to these matters? Nothing, Mr DeFaria, nothing.

When I speak of process, again I speak of the whole process of committee. This committee sat through a number of submissions yesterday. We were restricted to but one afternoon, and quite frankly this debate is restricted to but half an hour. The 10 minutes allocated to each party will consume but half an hour, and then the sections will be rammed through. Mr DeFaria, you tell me about the fairness, because really aren't all of us interested in fairness? Without criticizing any individual, because I know that people don't come here of their own accord—they're sent by the whip—but one of your committee members who was here yesterday listening to the submissions isn't here today to vote on the bill. She's replaced by another person. I understand what that means. No disrespect to that new member of the committee, but there is no Hansard of those submissions, only a portion of them. The smallest number of them were presented in writing. So your caucus thinks it's OK to bring a caucus member here to vote on this, section by section, when that caucus member hasn't had the benefit of hearing those submissions. What does that say to members of the public who came here, who prepared those submissions? It says that you hold them in disdain.

**Mr Carl DeFaria (Mississauga East):** Mr Chair, I'm wondering if the member will give me the rest of his time to respond to him.

**Mr Kormos:** Not in a New York minute. I didn't impose the time allocation and I'm prepared to live with it. You've got to live with it too, Mr DeFaria.

**Mr DeFaria:** You've asked questions of me and direct all your comments to me—

**The Chair:** Mr DeFaria, Mr Kormos has the floor.

**Mr Kormos:** Thank you kindly, Chair.

**The Chair:** Three minutes.

**Mr Kormos:** This bill is very much about homelessness. It's very much about poverty. It's very much about young people who look different from you and me. Clearly, it's not about prohibiting or criminalizing con-

duct; it's about prohibiting and criminalizing certain types of people.

As we illustrated yesterday, when middle-aged, middle-class business-suited men squeegee, it doesn't have the same quality of squeegeeing under this bill. What you're really doing is saying that you, the Conservative Party, don't like kids with spiked hair or whatever colour hair and whatever assortment of earrings and tattoos out there doing that.

You've indicated it's OK for firefighters on Labour Day weekends to stand in the middle of intersections—and I agree with that—to solicit funds for muscular dystrophy, even though it would in fact be an offence under the act. But you say it's OK for them to do that, you see, because you're condemning, not the act, you're condemning the individual.

With respect to solicitation, surely you're not suggesting that my colleagues from any number of churches that proselytize in public places be prohibited from doing that. Surely you're not suggesting, as Mr Borovoy indicated, that a white, middle-class person in their suit couldn't ask a bystander for a quarter to use the payphone. You're not condemning the conduct; you're condemning the person, persons and class of persons.

This bill is a shameful and brutal reflection of an attitude that prevails in this government that reminds us of totalitarian regimes. I've been to some of them, and begging is similarly prohibited, because those regimes want to hide the fact that they also contain and create circumstances of poverty. Rather than addressing poverty, they criminalize the poor. Rather than attacking homelessness, you've attacked those women and men in our communities and in our province who are homeless.

This is a shameful piece of legislation. This is a piece of legislation that is unenforceable, that at the same time can be used and, I predict sadly, will be used very selectively to sweep the streets clean, to sanitize them, to eliminate the symptoms of this government's disdain for the poor and the young so that tourists and in fact maybe members of this government will feel more comfortable walking their streets without being confronted by the reality of poverty, by the reality of homelessness, by the reality of youth unemployment, by the reality of young people who have been abused and beaten and scarred who find themselves out on the streets struggling to make a loonie or two by squeegeeing windows or indeed by panhandling. My God, should they dare do it in such a way? That means that they have to make contact with the person who they seek to be the donor.

You are creating a community and a province about which very few of us should feel any pride whatsoever.

**The Chair:** Thank you, Mr Kormos. I have a request for payment of travel expenses by the National Anti-Poverty Organization for the period before us yesterday. It's in the amount of \$1,186.59. They came from Ottawa. Do I have a motion for payment or consideration?

**Mr Martiniuk:** So moved.

**The Chair:** Moved by Mr Martiniuk. All those in favour?

**Mr Kormos:** Debate, please.

**The Chair:** Of course.

**Mr Kormos:** I want to indicate to Mr Martiniuk that I will be supporting his motion to reimburse this organization. I also want to apologize because I neglected, as did other members of the subcommittee, to anticipate this. Quite frankly, we should have anticipated it so that the clerk could have advised—as it was, the clerk was compelled to advise groups that they were entitled to submit requests but she couldn't offer them any guarantee, and that's because the subcommittee had neglected to address this issue.

So first I apologize, and I hope that in the future we'll use this experience, and we should always consider that. Even though this bill is not a modest amount, it certainly was far cheaper than the committee travelling to Ottawa, and I acknowledge that.

Also, look at this. These people, without any assurance of being reimbursed, felt so strongly about this bill that they incurred expenses of almost \$1,200 for a mere 10-minute—

**The Chair:** I have to commence the proceedings, with respect to the rules.

**Mr Kormos:** Oh, I'm sorry, Chair. Is it 4:30?

**The Chair:** Is there approval of this invoice?

**Mr Kormos:** Carried.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** Is there time for one further comment before the motion is placed?

**The Chair:** Unfortunately, no. We're at 4:30 now.

**Mr Kormos:** Recorded vote, please.

**The Chair:** All those in favour?

**Mr Kormos:** A 20-minute recess, please, pursuant to rule 127 of the standing orders.

**The Chair:** Do you want to vote on this—

**Mr Kormos:** No. We have a right, pursuant to the standing orders, to a 20-minute recess, pursuant to standing order 127.

**The Chair:** Well, I haven't commenced into these proceedings yet.

**Mr Kormos:** It doesn't matter. It's still a vote.

**The Chair:** Then we won't deal with this.

**Mr Kormos:** You just called it, though, and I've asked for a recorded vote and for a 20-minute recess.

**The Chair:** Unfortunately, a 20-minute recess only applies to clause-by-clause. If you want, I'll let you vote on this—

**Mr Kormos:** Then deny it, and you have every right to deny that, if that's your interpretation of the standing orders.

**The Chair:** I think everybody's in favour of this? Agreed?

**Mr Kormos:** Carried.

**The Chair:** OK.

I'm going to read from the House so everybody understands the rules right now:

"That at 4:30 pm on the final day designated by the committee for clause-by-clause consideration of the bill and not later than November 30, 1999, those amendments

which have not been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill, and any amendments thereto. Any division required shall be deferred until all remaining questions have been put and taken in succession with one 20-minute waiting period allowed, pursuant to standing order 127(a)."

**Mrs McLeod:** On a point of order, Mr Chair: May I understand whether or not this is a referral motion specific to this particular bill or whether this is a standard referral motion for committees' operations?

**The Chair:** This is dealing with this particular bill, Bill 8.

**Mrs McLeod:** Because I do want to express my concern about the fact that this referral motion essentially provides for time allocation without there having been any discussion of time-allocating the clause-by-clause consideration of this bill.

**The Chair:** Well, this is more—

**Mrs McLeod:** I trust, Mr Chair, if I may complete my point of order, that this will not be something that is taken as a standard format. If it is, then we'll be in the position we were just in in terms of the last motion, which is approving travel expenses for people who have to travel to Toronto. Although I think they should be paid, I don't accept the fact that it's better to have people travel here than for the committees to travel outside of Toronto because of a time allocation motion which makes that impossible.

**The Chair:** That's not a point of order for this.

**Mrs McLeod:** Actually, Mr Chair, it is, although I gather that we're not allowed to have any—

**The Chair:** I read you the House motion. That's no point of order. Let's proceed.

Shall section 1 of Bill 8 carry? All those in favour?

**Mr Kormos:** No. Recorded vote.

### Ayes

Beaubien, DeFaria, Elliott, Martiniuk.

**Mrs McLeod:** The deferred vote is not supposed to be held until the completion of the clause-by-clause.

**Mr Kormos:** Please read the time allocation motion, Chair.

**The Chair:** It's already been read.

**Mr Kormos:** Well, read it so you understand what the purpose is.

**The Chair:** It's already been read. Who is opposed?

**Mr Kormos:** A 20-minute recess.

**The Chair:** We're right in the middle of the vote; after the vote.

### Nays

Bryant, Kormos, McLeod.

**The Chair:** Section 1 is carried.



Shall section 2 carry?

**Mr Kormos:** Recorded vote; 20-minute recess, standing order 127.

**The Chair:** You have to ask for the recess before the recorded vote.

Who's in favour?

#### Ayes

Beaubien, DeFaria, Elliott, Martiniuk.

#### Nays

Bryant, Kormos, McLeod.

**The Chair:** Section 2 shall carry.

**Mrs McLeod:** A 20-minute recess.

**The Chair:** Shall section 3 carry?

**Mrs McLeod:** I asked for a 20-minute recess.

**The Chair:** OK, a 20-minute recess.

*The committee recessed from 1635 to 1655.*

**The Chair:** We left off at section 3.

**Mr Kormos:** On a point of order, Chair: The time allocation motion indicates that upon request for a recorded vote, that vote shall—and it's mandatory—be deferred. That's what the time allocation motion says. It's my submission to you, and this one is respectful, as compared to most of my other submissions—

*Laughter.*

**Mr Kormos:** Well, I'm being candid.

**The Chair:** I'm listening.

**Mr Kormos:** —that the votes taken to this point have no validity. To comply with the time allocation motion—and this Chair would argue, very correctly, that we have to strictly comply with it—those votes have to indeed be deferred. So the votes are null and I would suggest the Chair can correct that by indicating that they're null, and that they be deferred until all the sections have been moved, as the time allocation motion requires.

**The Chair:** Sections 1 and 2? OK, that's fine. Section 3—

**Mrs McLeod:** On a point of order, Mr Chair, and I'll be very brief: I had requested some information to be tabled, and I would ask whether or not there is any information to be tabled before we reach the completion of the clause-by-clause consideration of the bill.

**Mr Martiniuk:** I provided that to your colleague.

**The Chair:** At the beginning, yes.

**Mrs McLeod:** Thank you very much.

**The Chair:** Sections 1, 2 and 3 are going to be deferred to the end.

Shall section 4 carry?

**Mr Kormos:** Recorded vote.

**The Chair:** OK, deferred to the end.

Shall section 5 carry?

**Mr Kormos:** Recorded vote.

**The Chair:** That will be deferred to the end.

Shall section 6 carry?

**Mr Kormos:** Recorded vote.

**The Chair:** It shall be deferred to the end.

Shall section 7 carry?

**Mr Kormos:** Recorded vote.

**The Chair:** Shall section 8 carry?

**Mr Kormos:** Recorded vote.

**The Chair:** Deferred to the end.

Shall section 9, the short title of the bill, carry?

**Mr Kormos:** Recorded vote.

**The Chair:** Deferred to the end.

Shall the title of the bill carry?

**Mr Kormos:** Recorded vote.

**The Chair:** Deferred to the end.

OK, Shall section 1 carry?

**Mr Kormos:** Chair, pursuant to standing order 127 and the time allocation motion, I am requesting a 20-minute recess. The time allocation motion indicates that a 20-minute recess shall be provided for, prior to the putting of the question for the recorded votes.

**The Chair:** We've already had a 20-minute recess, so we're going to proceed.

Shall section 1 carry?

**Mr Kormos:** It's a recorded vote so you have to put it to the members.

**The Chair:** All those in favour?

#### Ayes

Beaubien, DeFaria, Elliott, Martiniuk.

#### Nays

Bryant, Kormos, McLeod.

**The Chair:** Section 1 carries.

Shall section 2 carry? Recorded vote.

#### Ayes

Beaubien, DeFaria, Elliott, Martiniuk.

#### Nays

Bryant, Kormos, McLeod.

**The Chair:** Section 2 carries.

Shall section 3 carry? Recorded vote.

#### Ayes

Beaubien, DeFaria, Elliott, Martiniuk.

#### Nays

Bryant, Kormos, McLeod.

**The Chair:** Section 3 carries.

Shall section 4 carry? Recorded vote.

#### Ayes

Beaubien, DeFaria, Elliott, Martiniuk.

#### Nays

Bryant, Kormos, McLeod.

**The Chair:** Shall section 5 carry? Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Shall section 6 carry? Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Shall section 7 carry? Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Shall section 8 carry? Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Shall section 9, the short title of the bill, carry? Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Shall the title of the bill carry? Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Shall Bill 8 carry?

**Mr Kormos:** Recorded vote. I'm requesting a 20-minute recess pursuant to standing order 127.

**The Chair:** We've already had our 20-minute recess. Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Bill 8 shall carry.

Shall Bill 8 be reported to the House?

**Mr Kormos:** Recorded vote.

**Ayes**

Beaubien, DeFaria, Elliott, Martiniuk.

**Nays**

Bryant, Kormos, McLeod.

**The Chair:** Bill 8 shall be reported to the House.

**Mrs McLeod:** I would like to express my appreciation to Mr Fenson, who was the research officer here yesterday. He did a very fine job of compiling what was available in terms of statistics on homelessness from other reports that had been presented. I assume, therefore, that the second part of my request, which was any government information, was not available and therefore that was provided. It's information that Mr Fenson was able to cull from other reports that was made available. I want to thank him for the effort he made to provide some data for this committee.

**The Chair:** This committee shall adjourn until Monday at 3:30 pm to deal with Bill 9.

*The committee adjourned at 1701.*



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of Ontario**First Session, 37<sup>th</sup> Parliament**Assemblée législative  
de l'Ontario**Première session, 37<sup>e</sup> législature**Official Report  
of Debates  
(Hansard)**

Monday 6 December 1999

**Journal  
des débats  
(Hansard)**

Lundi 6 décembre 1999

**Standing committee on  
justice and social policy**Police Records Checks  
by Non-Profit Agencies Act, 1999**Comité permanent de la  
justice et des affaires sociales**Loi de 1999 sur les vérifications  
des dossiers de police  
par les agences sans but lucratif



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 6 December 1999

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 6 décembre 1999

*The committee met at 1606 in room 151.*POLICE RECORDS CHECKS  
BY NON-PROFIT AGENCIES ACT, 1999  
LOI DE 1999 SUR LES VÉRIFICATIONS  
DES DOSSIERS DE POLICE  
PAR LES AGENCES SANS BUT LUCRATIF

Consideration of Bill 9, An Act respecting the cost of checking the police records of individuals who may work for certain non-profit service agencies / Projet de loi 9, Loi concernant les frais de vérification des dossiers de police à l'égard des particuliers qui pourraient travailler pour certaines agences de services sans but lucratif.

**The Chair (Mr Joseph N. Tascona):** The committee is in session. I'm Joe Tascona, the Chair of the standing committee on justice and social policy. We have a number of presenters. I have to apologize that we're a little late getting started. The House has just put us in a position, orders of the day, so that we can start.

## EAST YORK BASEBALL ASSOCIATION

**The Chair:** Our first presenter is the East York Baseball Association. I have Byron Yankou. You have 20 minutes to make your presentation. If you don't need to use that, there'll be an opportunity for the other parties' representatives; Mr Kormos is here and representatives of the government party, and they can ask you some questions, if they wish. So go ahead.

**Mr Byron Yankou:** My name is Byron Yankou. I live in the city of Toronto, and I come here today in support of Bill 9. I'm a volunteer on the executive of the East York Baseball Association, and I manage my 10-year-old son's baseball team.

Are children being victimized? Let's look at the facts. The National Foundation to Prevent Child Sexual Abuse in the United States is the organization that helped President Clinton draft a bill, which was signed into law on October 9, 1998, called the Volunteers for Children Act, which amended the National Child Protection Act of 1993.

The National Foundation to Prevent Child Sexual Abuse stated these chilling facts: The Boy Scouts of America reported that at least 2,071 scouts reported being abused by their leaders between 1971 and 1991. Yet, there were still at least 14 men who had been charged or

convicted of sex offences who joined the Boy Scouts, including some who'd been kicked out before. Why? Because the national organization of Boy Scouts hadn't mandated police background checks.

In Dallas, Texas, at the YMCA there was a counsellor between 1989 and 1991 named David Wayne Jones, a 20-year-old. He had been a counsellor in an after-school program, and he had molested 41 children between the ages of three and 11 who were in his care. He's now serving 15 years.

In Rhode Island, Michael Abatto was named Tiverton, Rhode Island's Man of the Year for his work with community youth organizations. He was convicted of sexually molesting two boys he had worked with over a period of five years.

In 1993, Richard DeHuff, who was a volunteer at Big Brothers in King county, Washington, pleaded guilty to raping an 11-year-old boy in his care. He was sentenced to seven and a half years.

Dennis Bedard of Harrison, Maine, a 44-year-old man, had been a little league coach for several years when he was convicted of two counts of gross sexual assault and eight counts of unlawful sexual conduct. The offences occurred over a six-month period and involved boys between the ages of nine and 12.

In Canada, we have Graham James's shocking abuse of Sheldon Kennedy. There is the Mount Cashel orphanage. These infamous incidents are part of this country's history.

Professionally, I am a property and casualty insurance broker. I'm all too aware of the liability that both for-profit and non-profit organizations have when they hire or accept as volunteers people who work with young people. Sexual abuse liability is an area that I have some knowledge of as a result of my working with the Greek Orthodox Church of Canada.

The East York Baseball Association provides both rep and house league programs for over 600 boys and girls, ranging in age from four to 20 years old. While we have never had any problems with sexual predators, we want to keep it that way. Previous boards of my association, I am told, considered doing police background checks on volunteers, but at the executive meeting we had this past Saturday I was told they shied away because of the enormous cost. However, in the new year we will be voting on, and I am sure we will pass, that it will be



mandatory that all volunteers, umpires and park workers will have to go through a police background check.

I just went to 40 College Street, home of the Toronto Police Services Board, last week and I received this package on doing criminal background checks on volunteers. The cost for volunteer organizations today is \$16.05 per background check. If you multiply that over the 135 coaches, umpires and park staff we have, the little East York Baseball Association would have to pay an additional \$2,000 a year. I've included a brief summary of our financial statement, and you can see here that we only charge our kids half of what we get in and we do fundraising like everyone else. We have a surplus of \$4,000. If we had to pay an additional \$2,000, that would be half of our surplus, which we use to buy bats, balls and equipment with. We would just have to do more chocolate almond selling, bingos and more fundraising.

The East York Baseball Association never turns away needy children because their parents can't pay. We find a way to look after our children, many of whom are from broken homes, homes of hard-working single parents or those children who come from homes on social assistance. We find a way for them to have some fun playing baseball. We haven't raised our fees in three years, but because of rising costs we will likely have to raise our registration fees 20% this year. If you want to play in our house league—last year it was \$100—this year it would cost \$120 for many hours of fun. But if this bill doesn't pass, Bill 9, we will probably have to raise our registration a little bit more because the East York Baseball Association will be taking the lead and doing police background checks whether this bill is passed or not.

The businesses of our area have been very supportive financially, but they're tapped out. All of the body shops, realtors, insurance brokers, doctors, dentists, legions and photo studios are inundated with requests for fundraising because of government cutbacks. Surely the government can help those volunteer organizations that work with children and work with the aged, because children may form only 25% of our population, but they're 100% of our future.

Let me tell you something about human nature. Most people won't buy insurance unless they have to by law or else if they know someone else who has suffered a loss. Even though it's mandated by law in Ontario to buy car insurance, there are still thousands of Ontarians who go without because of the cost. My point in mentioning this to you, ladies and gentlemen, about human nature is that our little baseball association hasn't done background checks in the past because of the cost and neither have huge organizations, such as the Greater Toronto Hockey League or the Ontario Baseball Association. If the government decides to pass Bill 9, the excuse of the enormous cost will be taken away from the very many volunteer organizations which work with children. The government's action will also send a message to volunteer organizations to do police background checks to help prevent further victimization of children.

To those of you who argue that there will be an extra cost for police forces of this province, I acknowledge that, yet I say to you, look at the enormous societal cost of those children who have been victimized and have lapsed into alcohol and drug addiction, prostitution and continuing the chain of sexual abuse and tell me that a small investment in doing a background check, in prevention, is worth it.

Look at the enormous amount of money that was spent on the inquiry regarding the late Martin Kruze. May God rest his soul. When it was revealed what that poor child and young man went through, eventually committing suicide, we as a society must vow that it will never happen again.

As a civilized society, we must ensure that it never happens again. When there is an organization called NAMBLA, the North American Man-Boy Love Association, that argues that adult society has neither the moral nor legal right to limit a child's selection of sexual partners, I say beware. There is a René Guyon Society, that has a credo of saying, "Sex before eight or it's too late." I say, with these perverts roaming around, help.

I think we all agree that society deems schooling, the fire department, policing and snow clearing to be essential services. With all the reports of abuse that I've outlined today, I hope you'll agree that police background checks are essential services that our youth and aged, the most vulnerable members of society, are entitled to. Please help prevent further abuse.

**The Chair:** Are there any questions from the parties? We have 10 minutes, so about three minutes per caucus.

**Mr Peter Kormos (Niagara Centre):** If I may, Chair, obviously, because of what went on in the House, we started later than we had planned to. Are we able to accommodate all the folks who are here today?

**The Chair:** Everybody is here, I believe. We should be able to. There's one party that's going to present tomorrow.

**Mr Kormos:** If I may, then—

**The Chair:** We'll start off with Mr Kormos; three minutes each.

**Mr Kormos:** I wanted to make this clear. You said the Greater Toronto Hockey League does not routinely require record checks for its volunteers.

**Mr Yankou:** I don't believe so. I phoned up the Greater Toronto Hockey League and asked them what their position was. My son plays in the league. I spoke to a first or second director, Mr Steve Kupresak, and he said he'd take it under advisement. I phoned Mr Gardner, who's the president of the GTHL, and he has yet to return my call. But as far as I know, the GTHL doesn't do routine police background checks on their coaches.

**Mr Kormos:** One of my concerns, and I'm not purporting to have investigated every single organization, is that I did come across a surprisingly large number of volunteer-based organizations, especially those in health care and working with persons with disabilities, that similarly had never adopted a consistent practice of record checks. Part of the motive behind the bill is to

create an incentive by not having the disincentive of a financial cost.

Thanks very much for taking the time. I appreciate it.

**Mr Frank Mazzilli (London-Fanshawe):** To explain the government's position, we certainly always support the record checks being done. The issue remains whether it will be a local decision or a province-wide decision that our police departments be forced into such actions. That's what the debate is about today and it will continue for the next few days. As you likely know, some police services have been providing this service free of cost to volunteer organizations, and have for some time. Others have been charging a minor amount for some of these checks. Again, I thank you for your presentation, but just so you're aware of what the debate is about, it's about the 50% or so of police services that charge a minor amount for volunteer checks.

**Mr Yankou:** I am aware. To us, \$2,000 for our organization isn't a minor amount. We can't use the OPP checking for free; we have to use Toronto Police Service, because we're in Toronto.

**Mr Mazzilli:** I appreciate it. You're in one of those areas that's certainly affected.

**Mr Michael Bryant (St Paul's):** My question has been addressed. Thank you very much for coming.

**The Chair:** Thank you very much for coming. We appreciate it.

#### ANGLICAN CHURCH OF CANADA

**The Chair:** Our next presenter is the Anglican Church of Canada. We have the Reverend Harry Huskins, the Venerable Susan DeGruchy and the Right Reverend Ann Tottenham. Thank you very much for coming. We have 20 minutes for a presentation. Please introduce yourselves to the members.

**Rev Harry Huskins:** My name is Harry Huskins. I'm the executive officer for policy for the Anglican Church in the province. We became aware that this bill was going to be discussed in this hearing, so we've attempted to bring together a delegation to you from across the province. It was somewhat difficult to cancel some appointments. We managed to bring a couple of the Toronto bishops here. Bishop Ann Tottenham will be addressing a brief to you in a moment. Archbishop O'Driscoll, the senior bishop in the province, sends his regrets. Unfortunately, he was involved in a meeting this afternoon that has been scheduled for over a year and he couldn't make it here, but he sends his very best wishes to you and his thanks to you for considering this matter, which is very important to but is easily overlooked in the grander scheme of things. With your permission, Mr Chairman, I'll allow Bishop Ann Tottenham of the Diocese of Toronto to read our brief to you.

1620

**Bishop Ann Tottenham:** I am Bishop Ann Tottenham. With me are Bishop Michael Bedford-Jones of the York-Scarborough area of our diocese, and Reverend

Susan DeGruchy who, with Harry, is on the Anglican executive in Ontario.

Mr Chairman and members of the committee, I would like to thank you for your generous invitation to speak with you today. I represent some 400,000 Anglicans and more than 1,000 congregations in the province on a matter of some concern to us: the problem that many of our groups and agencies experience in meeting the costs of police records screening checks of volunteers, the same matter you are considering in this hearing.

The moral, social and legal responsibilities we carry when we place volunteers and employees in contact with the young and the vulnerable have been of increasing concern to us. For this reason, we have made it a priority over the last three years to participate actively in both the national and Ontario screening initiatives. Our senior elected layperson, Betty Livingston, the prolocutor of our provincial synod, has taken a leading role in the development of the sections concerning faith communities. Just two weeks ago here in Toronto, there was a major training session in screening protocols and techniques. Leaders from each of our seven dioceses, and many other faith groups, were involved. They will now go back to their communities and parishes to enable us to implement these procedures in our organizations and groups.

These agencies and groups address a wide range of needs and take many forms. In our parishes we have the traditional Sunday school, youth and scouting groups that you would expect to find. We also have an increasing number of very active groups that work with seniors, the ill and those with limited mobility, the physically, developmentally and emotionally challenged and, of course, the hungry and homeless. We have an increasing number of larger agencies that work at the diocesan level. In the Diocese of Toronto, we fund 10 community ministries and agencies with specific mandates to address the needs of refugees, homeless men and women, low-income women and children, troubled teenagers, and women seeking shelter from abusive relationships. We will spend \$650,000 on these 10 ministries in Toronto alone this year, and it will not be enough. Every day we see the needs growing, and we find ourselves under increasing financial pressure right across the province as we try to fill the expanding gaps in our social fabric.

In addition to these efforts on the parish and diocesan levels, we are increasingly entering into joint efforts with other Christian denominations, other faith groups, other community agencies and, in some cases, with governments. We believe that these partnerships will increase substantially over the next decade as all of us try to do the best possible job with limited resources.

All this work depends on volunteers; it could not be done without them. As we try to increase the number of our volunteers and, at the same time, implement our new screening procedures as widely as possible, the problem we are encountering is the cost of screening checks. We did not foresee this, but it is a growing problem as we try to expand our ministries. We hear about this difficulty more and more from the grassroots level. The director of



community ministries program of the Diocese of Toronto says, "Without some action to restrain or eliminate the growing costs of screening checks, I foresee a deterring effect on volunteer involvement and an increasing impact on the scope of services we can provide."

This does not mean that we will not continue to try to do the job. It does mean that how well we can do that job will be undermined. We are particularly worried about the emerging situation in which we will not only have to curtail recruitment of skilled and enthusiastic volunteers, but we'll also have to turn away some who offer their services because we cannot afford to pay for their screening from within our overstretched budgets.

The alternative to this is to screen only some and not all of those who should be checked. This undermines the very screening initiatives we have put so much time and effort into developing in conjunction with the federal and provincial governments.

Our church's provincial council considered this problem, and we talked informally with many of those involved at all levels and in all sectors. One particular concern which emerged is that we do not want a situation to develop in which financially stretched community groups and financially stretched police services are placed in an artificial but destructive conflict because of this issue. In response to this, the provincial council, consisting of the diocesan bishops and elected lay and clerical delegates from each of our seven dioceses, passed the following motion:

"Be it resolved that this provincial council, recognizing the financial burden imposed on volunteer organizations and police services by the fee for CPIC checks used in the screening of volunteers, urges the provincial government to establish a fund to reimburse police services in the province for the cost of these checks and the resources and personnel, equipment and space needed to carry them out, and that the police services be given the discretion to determine which requests for CPIC checks for the screening of volunteers reimbursable under this fund are appropriate to proceed with."

We believe this approach would resolve the four major problems we see in the present situation. They are (1) the difficulty volunteer organizations are having in paying the screening costs, (2) the disparity from place to place of the actual fee being charged, (3) the inequity across the province, where some of our groups are lucky enough to be policed by the OPP or by police services that absorb the costs, and others who have to pay fees, and (4) the disparity of the financial burden between police services, some of which have relatively limited numbers of requests and others which must deal with a far larger number of requests.

We appear before you here today not as experts in the questions of public finance and administrative procedures which this problem raises. There are others present who are far more experienced and knowledgeable in these areas than we are. Your Chair's experience on the Barrie city council, Mr Guzzo's similar experience in Ottawa

and my colleague, Mr DeFaria, in the Peel region, have experience in government that we do not have. We are experts, however, on what is actually happening on the ground with our organizations, groups and agencies. I think Mr DeFaria's own days as a social worker will allow him to relate to this.

We have come here today to ask for your help. Thank you for allowing us to appear.

**Archdeacon Susan DeGruchy:** I just have a few brief additional remarks, if I may. With regard to the definition of "qualified agency" in the bill, we have some concerns as to whether or not the church would be covered by this bill because of this definition. It may or may not be a problem in anybody's mind but our own.

Our concern arises from the fact that a qualified agency is a non-profit association whose main object is to provide services to one or more of the following client groups: individuals under 18, individuals 60 or older and individuals with a disability significantly affecting their ability to carry out activities of daily living.

There is no doubt in my mind, and in the experience of those within the church, that the church does provide services to all these groups and provides these services to a large extent. But the main object of the church is to worship and to serve Jesus Christ and not to provide those services. Those services flow out of the service of our Lord.

It would seem to me that we might wind up in a very strange situation if this bill were to become law, in that our diocesan camps, for example, do have as their main purpose serving people under the age of 18 and therefore might be able to get their volunteer checks without charge, whereas a parish church that has a Sunday school, that would serve far more children for a far longer time, might indeed have to pay for those. We just raise that as a concern for your consideration.

1630

**Rev Huskins:** Just before we have a few minutes for an opportunity to ask questions, I can say that we have with us the Reverend Dawn Davis, who is the human resources officers for the Diocese of Toronto, who deals directly with this situation every day. If a question should arise in which facts and figures, actual numbers on the ground, would be helpful, if it's OK with you I'll just refer things to Reverend Dawn Davis.

**The Chair:** Certainly. We have about three minutes per caucus. We'll start off with the government.

**Mr Mazzilli:** How many checks would you do in the course of a year?

**Rev Huskins:** It sounds like we're going to call upon the services of Reverend Dawn Davis very quickly. My field is policy. You know how detached that can be from pragmatics. Dawn, would you like to answer?

**Rev Dawn Davis:** First of all, what we look at is the various types of ministries we offer, for example, Out of the Cold volunteers, nursing home visitors, parish nurses, youth group leaders, soup kitchen leaders, the whole gamut. What we would be looking at is approximately—again, this is just the Diocese of Toronto that I'm

referring to; my colleague in the Roman Catholic Church has about three times this to consider. We are one diocese of eight within the province, and we're the third-largest denomination. So keeping that in mind, just for us, we're looking at 30,000.

**Mr Mazzilli:** If this service were free and paid for by the taxpayers of Toronto, do you expect that number of 30,000 would increase or stay the same?

**Rev Davis:** No, I would imagine there are 30,000, then about 10,000 at the most every year thereafter. That would probably be at the most. I would say there would be between 5,000 and 10,000 every year. We'd have 30,000 to begin with because we'd have to get all the existing ministries covered.

Can I refer also to a question you raised earlier? We found that we're having a really difficult time getting free reference checks. They range between \$20 and \$50, and when there's more and more desire for that, it's becoming less an option that the police are able to give a free check.

**Mr Bryant:** I have a similar question. Maybe you've just told me the answer, but I'm terrible at math. What was the cost, approximately, to do these checks, say, last year?

**Rev Davis:** We are only starting, so right now we've only begun with our senior clergy. We have to start with our existing clergy, which is 600—

**Mr Bryant:** I'm sorry, I was dyslexic in my question. What do you anticipate the cost to be, approximately?

**Rev Davis:** I'm anticipating \$600,000 at least, for the first year, and then something around \$200,000 thereafter.

My Roman Catholic colleague is looking at 100,000 people who need to be checked for the first year.

**Mr Kormos:** Legislative counsel who got instructions to craft the bill was, trust me, not instructed to exclude the church. I appreciate your comments in terms of how you identify yourselves or might be identified by others vis-à-vis the definition of non-profit agency. We could ask legislative counsel to look at it again, and perhaps seek an amendment. But I hope you people agree that the criminal record search is not the be-all and end-all. That in itself is not the sole determinant. That's why I'm looking forward: The government has announced \$1.2 million to be invested in developing a program to help organizations—because there's some expertise out there now—to develop a system whereby you can screen people, and the criminal record check is but a part of that. I hope I'm singing from the same hymn book as you in that regard.

**Rev Davis:** Yes.

**Rev Michael Bedford-Jones:** It's just that in our own diocese our major effort actually is around educating the volunteers and putting into practice, for instance, implementing safety and so forth. We very much recognize that this is only one aspect of it.

**Rev Davis:** The figures I used were concerning medium- and high-risk. It's not the whole volunteer sector of the church; this is just medium- and high-risk

volunteers, so you can see how prohibitive the cost is for us.

**The Chair:** Thanks very much for your presentation. We appreciate that.

#### TED REEVE HOCKEY ASSOCIATION

**The Chair:** Our next presenter is the Ted Reeve Hockey Association; John McKay, chairman.

**Mr John McKay:** Good afternoon, ladies and gentlemen, honourable members. Unfortunately, I have not made a resumé, as I see the others have done.

My name is John McKay. I'm the chairman of the Ted Reeve Hockey Association and have been for the last 20-odd years. I've been involved with minor sports for in excess of 40 years. Our hockey association came into service in 1954. At the present time, we have approximately 750 to 800 boys and girls. Most of the people involved in our organization—the larger number of them—are unpaid volunteers. We have a great number of volunteers who have in excess of 25 years. As a matter of fact, one of our members has been with us since day one. Also, a large number of our coaches come and go as their children do. Any of you who have been involved realize what happens. You come in with your child and you leave later on with your child.

So we do have a variance of people involved with our association. There are approximately 150 to 200 volunteers. Over the years, like many in the sports field, we've been very shocked and upset to learn of the many instances of sexual abuse and abuse of children in the sporting world by coaches or any others that are involved with these children.

We also feel that anything that has happened in the past is a matter for the authorities and the justice system. However, our executive feel that we should do everything in our power to prevent any such abuse in the future. At this time, we are looking for guidance from the members of Parliament on what we can do to prevent future incidents such as have happened in other sections. As the gentleman from East York said, we have been very fortunate—and I knock on wood; I am superstitious—that as of this time, we have not been inundated with sexual abuse or abuse of any kind with the children of our association.

At this time I would like to draw your attention to a letter dated March 16, 1998, to the Honourable Charles Harnick. This letter is in the material which is in your possession. We at that time asked some pertinent questions, the answers to which we have not fully received at this time. We have been involved and very concerned about this subject for quite a few years. Our executive has been back and forth, but I think the first letter was to the Honourable Mr Harnick. We had spoken to our members of Parliament, both the MPP and the MP.

So we have been concerned about this situation over the years, and at this time we're looking for guidance. Since we wrote to the Honourable Mr Harnick, we've written several other letters to government departments,



but as you can see by the replies, we have no proper guidance or plan on how associations such as ours are to deal with this issue.

The issue is the safety of our boys and girls, or any children that we're involved with, from any sexual abuse in the future. We want to know what we can do to prevent this, and we'd request some guidelines from people such as yourselves.

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Some of the replies to our letters, as you can see, suggest that we contact the police or that we contact a lawyer and seek legal advice. We have had a dialogue with the police department. We've sent several letters to the police department. Incidentally, they've been very co-operative, but they, like ourselves, are in limbo as to what they can and can't do when you're taking on volunteers. They've not been able to give us any real, helpful information in our quest for ways to weed out undesirables. We feel that the suggestion to such legal advice seems geared to covering civil liability than to get a plan to prevent the abuse of our children.

Further, as a non-profit organization we do not always have the financial resources. If any of you have been involved, you know we're always looking for money. One way or another, as the gentleman from East York said, we're always looking for ways to raise money, and we don't always have the ways and means to look for legal advice.

Incidentally, we do carry liability insurance for injuries to our children, our coaches or managers, but we were informed—I think it was two years ago when our contract came out—that we would no longer be covered for any sexual abuse. I don't know if this is the time to say this, but it has put our organization in a bad position if anything should happen. Our big concern is for the children, but we must be realistic to realize that there's also a concern for the people who are doing the job. We don't want them out on a limb.

We have received a form from the police, a reference check. I guess you probably have it somewhere, or you've seen it. One of the things we're concerned with is that there's no age stated on the form and how young a person can be to be asked to sign this form to release information. We would like to make you aware that we have many volunteer members who are under the age of 18. Some of them are 15, 16, 17 years of age, and we wonder if it's proper and legal to ask them to sign a consent form of any kind. These are some of the things on which we look for guidance from yourselves, the Legislature.

Included with the form from the Toronto police there's also another form—I think you have it there—stating, as the gentleman from East York mentioned, that it will be \$16.05 for each and every member to have them looked at. This would run approximately \$2,500 to \$3,000 a year for our organization. Listening to the members from the church, I suppose it would be a humongous amount of money for all these checks to be done, but I suspect it would cost more to run one or two court cases than to

pay the money to make sure these people are not around children.

One of the questions we asked ourselves was, should we do this check once a year at a total cost of \$2,500 to \$3,000, should we just do the new ones coming in or should we do it every second, third or fourth year? Once again, we're asking for guidance.

Another thing that cropped into our minds was the idea of asking our volunteers to pay for this check. For any of you who have been involved in any kind of volunteer work, you're giving your time, and then to ask that a police check be done on you, maybe we could lose some very good—well, not the check being done; I agree fully with that on every one of them. But to ask them to pay for this, we might lose an awful lot of good volunteers in the future, and not only sports but any other organizations that are involved.

On behalf of the Ted Reeve Hockey Association, we support Bill 9. This support is for the 700 to 800 boys and girls playing at Ted Reeve and any other children who are involved in sports or anything else which might require older people looking after them in Ontario. We agree with the bill in that respect.

I don't know if I'm in order or not, but we would also like and hope that the committee might consider an amendment to Bill 9 to deal with the underage volunteer and clarify that situation if it is not already covered by law.

It is the hope of our association that the members of the Legislature will develop detailed guidance for organizations such as ours to assist in determining who is suitable to work with children and who is not. I've used the word several times; give us your guidance.

I must also say that it is obvious that a criminal conviction of any kind should not necessarily result in a complete ban from volunteer work. Sometimes the nature of the crime does not warrant such a ban. At present, the courts are convicting people, juveniles, and then sentencing them to community work. You've got to be very careful on how that ban is worked if they have been convicted. Assault of any kind? I don't know, gentlemen and ladies. But we do know that you cannot ban them all. These are people who might've been in trouble for different reasons. It doesn't matter what they are. As a matter of fact, we have five, six or seven young offenders who have come to our organization to work with young boys and girls because the court has given them community work to serve. So we not only serve the children; we help to serve the young people who get themselves into trouble.

I would like at this time, in closing, to remind each and every member of this committee that there are thousands of children in your constituency involved in minor sports and other fields that require senior people looking after them. These children at the Ted Reeve Hockey Association, along with the other children in the communities, need your help in providing protection from sexual abuse or any other abuse that a child might be subject to. Remember, when these children, for a few

hours a week, are under our guidance, they're our obligation. We would like to see them leave our arena in a safe situation.

Ladies and gentlemen, these children are your children. They're your obligation 24 hours a day, 365 days a year. Please enact some laws—guidance—that would help us all to protect our future generations.

Thank you, ladies and gentlemen, honourable members, for allowing me to have my say today. If there's anything you'd like to ask, if possible I will answer it.

**The Chair:** We have about a minute for each caucus.  
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**Mr Bryant:** My only question is that you asked for an amendment. Do you mean an amendment to the initiative or do you mean an amendment to this act?

**Mr McKay:** An amendment to the act. I can't see it, because my eyes are not good either way. What we'd like to see is something in the act that would give us permission to check children, because 15-, 16- and 17-year-old children could easily sexually abuse or abuse younger children, and we have the right to ask for that information. Or is it already a law? If it's the law, it's fine, we can ask them.

We're in a ticklish situation. We have people my age and people 14, 15, 16, 17. We have great variances, and one of the things that came up at one of our meetings was, can we ask these children—they're still children to us—to sign a form such as the police form to get permission to check these children?

**Mr Kormos:** Section 3 says, "This act does not authorize a police records check that is not otherwise authorized by law." Having said that, you will recall it was the scenario around a throne speech a few years ago where a young offender's name was mentioned as a result of his parent's giving consent, and it was concluded as a result of that investigation that a parent couldn't consent, but the clear inference was that the young person could have consented. It was a learning experience for everybody.

So it's my submission—and Mr Mazzilli raised that with me as well—that yes, you have every right to know if a young offender, who is still a young person, has been convicted of an offence that would otherwise bar him. I think you have every right to be able to screen him. Otherwise, every young person you have, if you can't do a criminal record search, you're bringing them on at great risk.

**Mr McKay:** You're saying it's OK, but is it law? Can I do this? Could we be sued? Could I be taken to court? Could we spend a lot of time back and forth to court if the parents were to decide to sue us because we asked? I don't know. Is it law at the present time that we can ask this child?

**Mr Kormos:** I'm not aware of it being clearly specified.

**Mr McKay:** That's my question, because we do have these boys and girls who are involved, and for me to take it back to my executive, "Hey, Peter Kormos said it was fine"—

**Mr Kormos:** Heck, I don't practise law, and even when I did I wasn't that effective.

**The Chair:** There's one more questioner.

**Mr Mazzilli:** Mr McKay, I just want to thank you on behalf of our members for appearing. The same question you had, of course, I had with Mr Kormos. As you are well aware, some of the intent and the good spirit in this legislation covers into federal jurisdiction, as to the Young Offenders Act. I don't know that right now any member in any of the three parties is quite clear on the question you have. Again, thank you, and we will be debating it.

**Mr McKay:** Thank you very much on behalf of the association, but please give us some guidance on what we can do and can't do.

**Mr Kormos:** On a point of order, Chair: May I please advise the Chair that the representatives from the provincial synod of the Anglican Church of Canada will be submitting a request for reimbursement to the clerk for the two persons who travelled from Sudbury. They had to leave promptly.

The other thing is, could we perhaps ask Mr Fenson, with apologies for the short time frame, if any material is available to him in response to the query put about the ability of a young offender to consent to his or her record being obtained and/or the need for a consent to be by both parent and YO. We know that the parent isn't enough—that's what was revealed a few years ago—but do parent and YO suffice?

**The Chair:** Understood.

## BOYS AND GIRLS CLUBS

**The Chair:** Our next presenter is the East Scarborough Boys and Girls Club, David Rew, executive director.

**Mr David Rew:** I'm here actually representing Boys and Girls Clubs of Ontario and Boys and Girls Clubs of Greater Toronto, as well as the Scarborough Boys and Girls Club, all three of which I am a member of.

My experience with children and youth goes back over 24 years full-time, and things certainly have changed. The environment out there has changed very dramatically over that period of time. In fact, I grew up through the Central YMCA here in Toronto and swam naked until I was 15 years of age—was required to swim naked until I was 15—and we certainly aren't in that position any more. That was the policy of the time. It was a YMCA and you did that. Obviously, we're not in that kind of situation any more and we are now moving towards a whole different ballpark in terms of that whole thing.

The previous speaker talked about insurance. My agency's insurance went from \$8,000 to \$18,000 a year two years ago for liability insurance. If I didn't want abuse and harassment coverage, I would have \$8,000 insurance. If I wanted abuse and harassment coverage, it was \$18,000. We went to market; the best I could do was \$18,000. The other quotes were \$28,000 and \$30,000 for



liability insurance, for my agency alone. That's one Boys and Girls Club. There are 24 in Ontario.

Clearly, there's a real issue out there around that. Police reference checks is one of 10 steps that we do in our agency to look at the whole issue. I know the previous speakers talked a little bit about high risk. High-risk volunteers are ones that you're going to place one-on-one with children and youth or with seniors or in their home. That's what they consider a high-risk volunteer. It's not a volunteer who is with five other people and never alone with a child. They'd be considered very low-risk volunteers, and therefore there are some issues around how many people and what you would do in those cases, if they're never alone.

However, having said that, there also is a case, and Boys and Girls Clubs is in front of this case in BC, where the individual made contact within the organization, then had the abuse outside the organization. This was 20 years ago. However, we still are being looked at for vicarious liability, that we allowed the contact to happen within our organization. There's no cut-and-dried issue around abuse and harassment coverage, around how you can protect yourself as an organization.

One of the things we believe in is volunteerism. As part of our core values, we are committed to volunteerism. We believe in that. There are 24 clubs in Ontario, and part of the package talks about that, talks about the number of members. We dealt with 52,535 kids last year in the province in the 24 different Boys and Girls Clubs. We dealt with over 1,000 staff and over 3,341 volunteers—that's an amazing number of people—for over 240,000 hours of volunteer time. I did a little calculation there. There are 52,000 children, 3,000 volunteers. Almost half of those volunteers were youth volunteers within our structure and organization. There are 212 full-time staff, 864 part-time staff.

The other issue is part-time staff. Most of them are youth in our communities; most of them are at high risk, are low income. They don't have the \$15; they don't have that money. I use \$15, because it is the Toronto Police Services Board's current fee, but they add GST to that, so it becomes \$16.07 or whatever. That is a deterrent.

Interestingly enough, the Ministry of Education has now put into their process that youth will volunteer. Well, that's interesting. I had a whole classroom of students come down the other day to the Boys and Girls Club wanting to volunteer. I said: "That's nice. Thirty times \$15. Who's going to pay for that? Are you, the student, going to pay for that, or am I, the agency, going to pick up that cost of having you come down and volunteer in my organization?"

1700

It is a requirement by law, as well, in my organization that we screen volunteers and do a police reference check. I have licensed child care and I have a number of other programs that fall under the ministry's guidelines. Again, the ministry comes down with guidelines and then no money to follow up the guidelines. To back off on the

child care is a prime example of that. I have nine full-time staff in child care, plus about 10 or 15 other child care staff in my organization alone that we were going to have to do police reference checks at \$45 a piece for. Then the ministry said: "Wait a minute. We'll grandfather those folks in, but any new employees you hire must have a police reference check." So now, currently, the policy says that any new employee hired must have a police reference check.

A lot of the individuals we deal with are from low-income families and there aren't the dollars to do that, so it's a choice we have to make as an organization. Are we prepared to put up the money for them, or are we going to say they can't volunteer in our programs and provide services to our community?

There's also a ripple effect. That's one of the other things I did at the bottom of my last page: 240,000 hours of volunteer time, at \$8 an hour, which is very close to minimum wage, represents \$1,921,134. That's what it would cost our organization, Boys and Girls Club of Ontario, to provide services if they weren't able to use volunteers.

I guess the other one is workfare. That's another interesting program, but if anybody wants to volunteer in my organization, they must get a police reference check and have that done as well.

The other thing—don't quote me on this, but I believe it's \$25 to change your name in the province. I think we need to look at that. Predators are becoming very creative in their access to kids. They're having to become creative because we are becoming more vigilant about making sure they don't get access to children that are vulnerable and leaving them alone. We're also doing the police reference checks and we're training children, teaching children. However, you can change your name for \$25, and if you have a police reference check on this new name I don't believe it's cross-referenced. I don't know, but I'd like somebody to check that out. But I believe it's \$25 to change your name legally in this province, and once you've done that, if you have a criminal record I'm not sure it's cross-referenced against the new name.

The other concern I have is the delay in process. It's simple to say that we're going to have no-cost reference checks, but if it takes me eight weeks to get a reference check on a volunteer, the volunteer is either gone or they've gone somewhere else or they are no longer interested. If you look at the school year, by the time you get to—and we do cycles as well, which is another issue that needs to be looked at in terms of that whole process. It is a time delay. Now we pay for it so it's probably somewhat fairly quick. If all of a sudden Toronto Police Services weren't getting any money and they had all these requests, I would hate to see how long it was going to take for me to get a police reference check back from the police.

That concludes my comments today. We definitely support the bill. We see the value in doing police reference checks, as I said before, as one component of doing volunteer reference checks and staff reference

checks. We certainly support the bill and we believe it would save our organization a substantial amount of money.

**The Chair:** We have about three minutes per caucus.

**Mr Kormos:** Thank you for emphasizing the business of a police records check being but one component of a broader screening process. You heard me make reference to it a few minutes ago.

The government has announced the \$1.2 million. I think the government is going to realize pretty soon that \$1.2 million for the type of thing that really has to be encompassed isn't going to go very far. We're going to support that goal, but with the numbers you talk about, \$1.2 million probably won't do the job, so that means it's just a beginning.

You talk about the insurance. What does your insurer say about how you screen volunteers or whether or not you screen them? Would you get any insurance at all if you didn't have some sort of disciplined and identified screening process?

**Mr Rew:** No. I would not get any insurance at all if I didn't have a process in place, and they actually review that process. Ours is about a 10-page document in terms of the screening process and the policy around that, and they actually get a copy of that policy and review that policy.

**Mr Kormos:** Do they require police records checks as a part of the screening?

**Mr Rew:** Certainly. If we didn't do it, I don't think I could get insurance.

**Mr Kormos:** If you didn't have insurance would you be operating?

**Mr Rew:** No.

**Mrs Brenda Elliott (Guelph-Wellington):** Good afternoon, Mr Rew. I have a question for you. You indicate that you're supportive of the bill, but do I understand correctly that you have a concern that if the checks were free, there would be such a deluge of checks requested that the delay could be such that it wouldn't be as valuable to you as they may presently be?

**Mr Rew:** I can't answer for the police services, but you've heard today the kinds of numbers you're talking about. It would have to be phased in in some sort of process. And the question arises that a police reference check, once you've completed it, is good today, but, you know, tomorrow they're convicted. Clearly, we'll also have to look at a process of, how often do you do it? One of the other speakers talked about that. Do we do it annually? Do we do it every three years?

If you've got a staff on staff and you've got a volunteer who's with you, you would hope to know that if charges had come forward you would be aware of those and subsequent charges and deal with it at that point, but it's a very tricky thing. If a volunteer comes in seasonally, if they come in and spend only the summer months with you, or part-time staff—we have a lot of staff who work for us in the summertime. They're in the higher-risk area where they're taking kids swimming, they're in with younger children all day long.

Clearly, you want to make sure they are done and done annually. The issue gets into the whole timing of that process. When a part-time staff gets hired, it's the end of May or June when you hire them, and you have to have them in place by July 1 to start working in your programs or they're of no value to you; you can't use them.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** I want to pursue Mr Kormos's line of questioning because I was staggered by your risk and liability insurance being \$18,000 and the fact that \$10,000 of that is for abuse-harassment liability protection.

You said to Mr Kormos that you couldn't get insurance at all if you didn't take appropriate procedures, including following along on the police security checks. But does the fact that you take 10 steps reduce the \$10,000 in any way, or is it just that it's a flat rate no matter how many precautions you take?

**Mr Rew:** It reduced it a little bit this year. The reality is that it's only reduced because we've had it for a year. A lot of organizations do not have abuse and harassment coverage any more in this province. This is not unique.

I made a decision that I wasn't going to expose our organization and our staff, primarily, and volunteers to not having some kind of coverage. You could have a false accusation against a staff. Technically, if you don't have any abuse and harassment coverage, you get no lawyer; you get nothing. Even if it's found to be completely unfounded, the individual would have to cough up that money out of their own pocket right now, in most organizations.

In fact, the waiver came through as a waiver, a rider, added to your insurance policy. Our insurance broker made it quite large, in red, bold letters, saying you no longer have abuse and harassment coverage. Most carriers put it on the back page, in the bottom line, in fine print, "You no longer have abuse and harassment coverage as part of this policy." And the policy didn't reduce in its cost. It just stayed the same, so everybody thought, "We've got the same coverage as we had last year." But they did not have abuse and harassment coverage any longer.

Most organizations actually operating in this province right now do not have abuse and harassment coverage.

**Mrs McLeod:** It seems to be that Mr Kormos's bill has led to the raising of a number of questions about the whole state of volunteerism in the province that need to be addressed in something much broader even than the bill.

**Mr Rew:** And the coverage I have currently is called coverage from the day it's signed forward. It doesn't cover anything previous to that. Not only am I paying \$10,000 just for that coverage, it's from today forward—nothing to do with anything that happened in the past. It's a real Catch-22 that a lot of organizations have found themselves in.

The industry has been meeting around this. Two weeks ago, the broker called me and said most insurance companies are running for the hills right now around this



coverage. There are only two or three that will even give it to you in the entire province. A lot of them, even the large ones, are not providing abuse and harassment coverage any more.

1710

### LORRAINE STREET

**The Chair:** Our next presenter is Lorraine Street. Thank you very much for coming.

**Ms Lorraine Street:** Thank you for the opportunity. My name is Lorraine Street. I'm here speaking as an individual. I work as a private consultant in employment practices risk management. But I have a long background in this issue, which I'll describe to you in a moment. In the document outlined before you, I would like to draw your attention to the appendix at the end, which, if we have time, I would run through.

I am writing and appear before you today to voice my opposition to Bill 9, An Act respecting the cost of checking the police records of individuals who may work for certain non-profit service agencies.

First, let me say that I applaud Mr Kormos's good intentions in sponsoring this bill. I am very sorry to be at odds with the representatives of non-profit organizations whom I have heard this afternoon, but I believe I have no choice but to do so. Having worked in, with and for non-profit organizations as a volunteer and paid staff member for 35 years, I can attest to the serious, often desperate financial difficulties facing agencies trying to serve children, youth, seniors and persons with disabilities. Yes, paying a fee for a police records check does add a burden to already overburdened organizations. However, the solution to that difficulty, I must strenuously argue, does not lie in prohibiting police services from being able to recover the costs of providing them.

I am opposed to Bill 9 for two simple reasons: (1) It is unfair to Ontario's police agencies; and (2) it will damage and harm the very agencies it intends to support.

I believe I am qualified to make this statement because I have spent the last 10 years studying, researching, writing about and training organizations on risk management and screening and, in particular, on the use, abuse and misuse of police records checks as a screening tool. I have done more work on this issue than anyone else in Canada.

From 1993 to 1996, I had the privilege of working with the Law Enforcement and Records Managers Network, LEARN, a subcommittee of the Information and Technology Committee of the Ontario Association of Chiefs of Police, while LEARN members developed recommended protocols for the release of information held by police, this document.

From 1994 to 1996, I led the research team and was the principal author of *The Screening Handbook*, the central resource of the first phase of the national education campaign, funded by the Solicitor General Canada, Justice Canada and Health Canada.

In 1995, I wrote *Screening Volunteers and Employees Providing Direct Service to Vulnerable Individuals Through Police Records Checks*, a resource document commissioned by the Ontario Ministry of Community and Social Services to assist its 5,000 transfer payment and licensed agencies in complying with the ministry's directive on criminal reference checks. That document was distributed by the ministry to its 5,000 agencies.

Since 1998 I have worked with the Ontario Ministry of Citizenship, Culture, and Recreation on the development of risk management tools for sport organizations dealing with harassment and abuse, and since 1994 I have conducted over 175 workshops on screening, making presentations to representatives of over 4,000 organizations in Ontario and other parts of Canada.

With specific respect to Bill 9 and the effect of Bill 9, first on police agencies, in order to respond to current levels of requests for police records checks, police agencies must already dedicate significant resources, including significant human resources. In keeping with the recommendations of LEARN, endorsed by the Ontario Association of Chiefs of Police, many police agencies in Ontario have been providing police records checks which include not only a check of databases held at the CPIC, the Canadian Police Information Centre, but also a check of local records, and often checks of local records of other police services. "Doing a police records check" is not, as many think, a simple matter of simply keying in a name and date of birth and receiving a computer-generated report that is then sent on to an agency or given to an individual.

The best police records check service to non-profit agencies is one that includes this check of CPIC, local records, and, when warranted and possible, checks of other local records, followed by the preparation of a report that may or may not include all of the information gleaned, depending on the policies of the police agency and the specifics of a memorandum of understanding signed with the non-profit.

Such a memorandum, among other things, forces the non-profit agency to recognize and accept its own serious obligations in receiving confidential information such as this. In fact, a thorough police records check includes far more than is outlined in section 1 of Bill 9. Criminal matters and judicial orders are not the only categories of information important to screening efforts. Information relating to non-criminal matters—for example, apprehensions under the Mental Health Act, convictions or admissions of guilt under the CFSA—is equally, if not more, important to good screening efforts.

While not every police service in Ontario currently provides such in-depth police records checks, every effort should be made to encourage, rather than discourage them, from doing so. The point cannot be made too strongly: These thorough checks are infinitely more valuable in the screening process than are checks related solely to criminal matters and judicial orders. If police are not allowed to recover their costs by charging organizations for doing these checks, then I believe we

will see one or more of the following scenarios result in short order:

(1) If they are to continue to provide the same or better levels of service, and if they are not allowed to recover the cost through fees, police services may be forced to divert resources from other programs or services.

(2) Instead of diverting resources from elsewhere, police agencies may decide to reduce the level and depth of their police records check service, restricting them to a check of CPIC databases and limiting their reports to a simple "hit" or "no hit" statement. This would be the least expensive way to proceed, but this kind of report is almost useless in screening.

(3) Police agencies may conclude that they cannot afford to provide this service and may discontinue it, referring individuals and agencies directly to the RCMP.

In terms of the bill's potential effect on the non-profit sector, while the bill has laudable intentions and on the surface may seem to be a good thing for non-profits, I would argue that it will have very serious "effets pervers"—unintended adverse medium- and long-term effects that will outweigh its superficial and short-term benefits.

(1) The first potential adverse effect is that police agencies may in fact decide to significantly restrict their programs or to stop them, as outlined above. Neither of these would help the non-profit community in any way.

(2) Before police arrive at this point, I believe the system, now overloaded as it is, will be swamped. Currently, it can take as long as six weeks in some areas for a police records check to be completed and returned. Many agencies already place individuals in positions, even positions of trust with vulnerable clients, on a probationary basis pending the receipt of a police records check. That itself poses risks, but many agencies feel they have no choice. If that waiting period increases from two or three weeks, past six or eight or 10, to 12 or 14 or more, the risks posed to vulnerable clients skyrocket. Abusers often know the system best, and they will take full advantage of this extra time.

(3) I believe that passage of this bill will place an inappropriate emphasis on police records checks, having the unfortunate effect of encouraging agencies to make police records checks their primary screening measure, rather than discouraging them from doing this.

It is clear from the research—including the federal government's Information Systems on Child Sex Offenders and Report of the Federal Ad Hoc Inter-departmental Working Group on Information Systems on Child Sex Offenders and the national research conducted for the national education campaign on screening—that many non-profit agencies believe police records checks to be the most important, if not the only important, screening tool available to them. Despite the availability of resources which demonstrate how untenable that belief is, it continues to be widely held, and is reinforced, I believe, because agencies are increasingly afraid of their exposure to liability, as you've just heard.

Many seek, consciously or not, to transfer responsibility for screening to the police. Understandably, agencies want the police to tell them if someone is "a good person" or "a criminal." In reality, it is neither possible nor desirable for the police to do this. The responsibility for screening must be shouldered by the agency and its representatives, the only individuals with full knowledge of and control over the situation in their organization, and therefore the only people who can properly screen paid and unpaid staff. They have an obligation to educate themselves about this issue and to do serious and proper pre-hiring, but especially post-hiring, screening through a variety of measures in order to be duly diligent.

Please let me be clear: If a police records check could "tell" agencies if someone is or is not a criminal or a person of bad character, I would be in favour of encouraging them, perhaps even requiring them. The fact is they cannot. To suggest otherwise does a disservice to the agencies which use them and places their clients and workers at great risk.

A police records check, with all its limitations, is a screening tool which must be used by agencies, particularly in screening for positions of trust. However, organizations must never, ever rely on police records checks as their primary or, worse, sole screening measure. A police records check simply cannot bear that weight, as the police themselves are the first to point out. Any measure which places a spotlight or gives some kind of prominence or primacy to police records checks only undermines the work of educating agencies about what really constitutes good screening.

Before I finish, I would like to address two issues that were raised by other presenters, if I may. One is the question about the Young Offenders Act. The question is that actually there's a grey area in the Young Offenders Act in terms of whether or not information related to a young offender can be disclosed to anyone other than the young offender himself or herself. There is an Ontario case of a young offender suing the chief of police in Belleville—it's called *YO v. Begbie*—in which the chief of police and the commissioners were sued by a young offender. The issue was whether or not that young offender had given informed consent to having his record searched and the information being released. But Mr Kormos is also right, the agency also has the legal right to request the screening.

The other issue that was raised is that of name changes. Under the Community Safety Act that was passed last year, from now on when an individual changes his or her name in Ontario, that information will connect, there will be a cross-reference with the change of name registry and police records, but prior to that year there is no such connection.

**The Chair:** Thank you very much. We have three minutes for each caucus.

1720

**Mr Mazzilli:** In your view, would record checks increase if they were free of charge?



**Ms Street:** Absolutely, yes.

**Mr Mazzilli:** What do you base that opinion on?

**Ms Street:** The day after I read the bill, I asked the question of the executive director of an organization I'm doing work for. I asked her what she would do if they were free. She said she would send every name that came in on an application form. Instead of waiting until they had the final five or three or two applicants through their other screening measures, because of the time involved they would send all the names in. That would have the effect of swamping the system, certainly in Toronto, and in some other communities as well, I have no doubt. I understand why she would do it; I understand it absolutely. But the fact is, and this is the most important point I hope to make in this presentation, this is going to have an opposite effect from the one that's intended, that agencies will end up getting less and less information rather than more and more, and they'll get it later and later rather than sooner.

**Mr Mazzilli:** And in your professional opinion, having worked with agencies, do they see this as a way of avoiding liability, by doing more checks?

**Ms Street:** With all due respect to Mr Kormos and the questions he asked of the previous speakers, it is true that agencies will say, "No, we don't believe police records checks are the primary source of screening." Even what they assume about them is most often incorrect and they place a greater reliance on them than is warranted. For example, in a room of 100 people, if you ask them if their assumption is that a police records check would tell them if someone had a criminal record, most of the people in that room would say yes. The fact is that it can't guarantee to tell you anything. It may tell you that, but it can't guarantee to tell you a thing.

**Mr Mazzilli:** Having worked with non-profit agencies, the definition of a "qualified agency" under this act means a non-profit corporation or association. What would that mean to you?

**Ms Street:** I'm not sure I understand your question, sir.

**Mr Mazzilli:** A "qualified agency" under this act is specified as a non-profit corporation or association. Is that a pretty wide term, that you know of, for a—

**Ms Street:** Sure. If I understand it correctly, it would include sport organizations, recreation organizations, incorporated and unincorporated non-profit organizations, registered charities. It's a fairly broad definition, if I understood it correctly.

**Mrs McLeod:** I appreciate the concern you've expressed very adequately about the inadequacies of police checks in terms of providing the kind of security that's needed. I think I understand what you say, that if it's free, somehow the system is going to be overloaded. But my understanding is that the police checks are required and therefore they have to be done no matter what.

**Ms Street:** No.

**Mrs McLeod:** I'll let you respond to that, but my other question is that we've heard from the non-profit organizations the financial burden they're bearing. It

seems to me that simply being opposed to this bill doesn't solve the problem of their financial burden or create a more adequate security check. I would appreciate knowing what you think a better alternative is, because obviously you're not suggesting there shouldn't be a security check at all.

**Ms Street:** No. A security check is not screening, a police records check is not screening, and all too often it's equated as such: a police records check equals screening or screening equals a police records check. It's a very dangerous approach to this. Screening involves many steps, pre- but especially post-engagement of someone. The most important screening measures that any organization can take are supervision, observation, monitoring and evaluation of their individuals on an ongoing basis. Those are far more important. The limitations outlined on page 5 of the presentation identify to you that virtually anyone who intends to, can find a way to circumvent a police records check report—virtually anyone. I can also give you the example of Gary Blair Walker, currently serving as a dangerous offender, who for 30 years sexually abused boys in eastern Ontario and underwent two or three police records check in the course of that. There were no reports because he had never been arrested until 1992.

So in answer to your question about what the alternatives are, they are : (1) to finally, and hopefully for all time, although I doubt it can happen, disabuse organizations of the notion that there is any kind of equation between screening and any kind of security check; and (2) as the gentleman who spoke before me was talking about, to encourage and educate organizations in the various steps that need to be done. I think there is need, very serious need, for financial support for organizations to do this. In my personal opinion, those funds should come from the funder, because this is an appropriate risk management activity. But those funds, if they're simply going to fund 100 or 10,000 or whatever police records checks, as far as I'm concerned that's money wasted. That money would far better be spent on having staff who are doing serious ongoing supervision, observation, monitoring and evaluation of individuals in positions of trust.

**Mr Kormos:** Yes, I did enjoy your comments. I read them before you made them, because I was starting to cover my tracks because I knew you were going to refer to them. I agree with everything you say except where you disagree with me, but that's not unusual around here.

Look, I hear what you're saying. I have some intimacy with the CPIC system and the broader-based police records checks that you talk about, for reasons that I'll not explain now.

First of all, let's talk about pedophiles. You're right. Most pedophiles, by the time they've been convicted, have probably offended X number of times. Because they are secretive, the very nature of the process is designed to avoid even apprehension, to avoid being turned in, never mind convicted. So I agree with you in that regard. The fact that somebody doesn't have a conviction for child

molesting doesn't mean he or she isn't a child molester. But pedophiles are among the offenders most likely to be recidivist because of the nature of the obsession and the sickness and the perversion. So the fact that a person does have a conviction is a pretty good sign, unlike somebody who maybe got convicted of a theft-under 10 years ago, youthful shop-lifting, for instance. It isn't that same—so I think we're very much on line.

You say the funds should come from the funder. I agree. I call that the taxpayer. I agree that at some point somebody's got to pay for this. I have no hesitation. My argument, very briefly, is that as a taxpayer—you heard Mr McKay talk about, what's the cost of prosecuting an offender? Obviously, it can be tremendous.

So my response to you is that, yes, the ultimate source of funding—and the government members say there's only one taxpayer; they're right—is the taxpayer. I'm saying as a taxpayer I understand. I think, for instance, if an applicant as a volunteer knows that a records check is going to be done, instead of hit and miss, then the convicted pedophile—and I appreciate that there are all sorts of ways of wriggling around the system. But if I know that they're going to do a records check on me and I got a recent conviction for a sex offence or an assault or something like that, I'm not going to bother applying, because I'm banking on those that don't do the records checks.

I leave that with you. I don't know how you—

**Ms Street:** May I?

**Mr Kormos:** Sure. Please.

**Ms Street:** I would suggest to you that I agree with you in terms of the recidivist rate and that pedophiles are likely to reoffend etc, but all it would take for a pedophile who didn't want to avoid a police records check is to simply go to Nova Scotia, as I did three years ago, spend \$5 at the bureau of vital statistics and walk out with a new birth certificate.

**Mr Kormos:** Fair enough. Quite right.

**Ms Street:** It would take nothing for someone to do that. It is not a difficult issue.

**Mr Kormos:** You're right. Locks are for honest people only.

**Ms Street:** I feel in a very awkward position here, because I certainly do not ever, ever, ever encourage organizations not to do police records checks when they're required. They have to do them.

The issue is, do they do them on the first hundred or on the last five? The issue is, what reliance do they place on them and where do they hold them in their hierarchy? And last, in terms of the funding issue, I think the funding needs to be there to fund the most serious work of screening, which is not police records checks; it's ongoing supervision, observation, monitoring and evaluation.

**Mr Kormos:** Fair enough as well.

**The Chair:** Thank you very much for your presentation. We appreciate it.

The committee adjourns until tomorrow at 3:30 p.m.

*The committee adjourned at 1728.*



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## **Legislative Assembly of Ontario**

First Session, 37<sup>th</sup> Parliament

## **Assemblée législative de l'Ontario**

Première session, 37<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

**Tuesday 7 December 1999**

# **Journal des débats (Hansard)**

**Mardi 7 décembre 1999**

### **Standing committee on justice and social policy**

**Police Records Checks  
by Non-Profit Agencies Act, 1999**

### **Comité permanent de la justice et des affaires sociales**

**Loi de 1999 sur les vérifications  
des dossiers de police  
par les agences sans but lucratif**

Chair: Joseph N. Tascona  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Tuesday 7 December 1999

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mardi 7 décembre 1999

*The committee met at 1553 in room 151.*POLICE RECORDS CHECKS  
BY NON-PROFIT AGENCIES ACT, 1999  
LOI DE 1999 SUR LES VÉRIFICATIONS  
DES DOSSIERS DE POLICE  
PAR LES AGENCES SANS BUT LUCRATIF

Consideration of Bill 9, An Act respecting the cost of checking the police records of individuals who may work for certain non-profit service agencies / Projet de loi 9, Loi concernant les frais de vérification des dossiers de police à l'égard des particuliers qui pourraient travailler pour certaines agences de services sans but lucratif.

## ONTARIO MINOR HOCKEY ASSOCIATION

**The Chair (Mr Joseph N. Tascona):** The committee is in session. Our next presenter is the Ontario Minor Hockey Association: Graham Brown, executive director. Good afternoon.

**Mr Graham Brown:** Thank you for allowing me to speak today.

After reading the briefs or minutes from November 4, I don't know if I'm preaching to the converted already, as many of you are in support of no fee, or at least addressing police records checks. Obviously, coming from an association such as the Ontario Minor Hockey Association that represents such a broad scale of people in Ontario, be it the players, coaches, trainers or referees, the minor hockey executives I suppose need to address the screening process, and our volunteers over the last two years in particular, since the CHA has been so prominently forward in its position on sexual harassment and abuse with the Sheldon Kennedy situation. Hockey has really taken what I would consider a leading role in trying to establish policies and procedures, one of them being police records checks and a screening process.

I have handed out some brief information to everyone here today to give you a little bit of background on some of the activities. Some of those are materials from the Canadian Hockey Association and our initiatives. Many times it's said that problems exist, but it's often those who search for the solutions who will achieve the greatest impact. I know that from the hockey perspective, speaking on behalf of Ontario and the CHA, we've definitely put in a concerted effort to establish a

framework for addressing a policy on harassment and abuse and on volunteers. Some of the materials are focused on education, which is a large component of what we try to accomplish at our level, but also on advocacy, not just providing people with answers but demonstrating how you can assist people through the process.

One of the problems we have is that we now have a mandate that by 2001 all volunteers in minor hockey across Canada must fulfill the requirement of a police records check. We acknowledge clearly that police records checks aren't the only answer, that they're one step in a process of screening volunteers. We've considered it the primary step in that it's the first step in the process. It's the first step that helps deter people who should not be involved in volunteer roles with children, and it's an important first step in acknowledging that volunteers need to fulfill certain obligations in order to donate their time.

It's unfortunate that everything we do with volunteer screening is to try and catch the 0.01% of people out there who may adversely affect our children's participation. For the most part, dealing on a day-to-day basis with upwards of 100,000 volunteers, I can say that the majority, if not close to all, are very good people who donate their time. Like I said, it's the 0.01% of those people we're putting all these checks and balances in place for.

Specific to today's topic of what I consider are the costs associated with police records checks, I'd like to touch on a few statistics. Within the Ontario Minor Hockey Association we have 54,000 direct volunteers. Those are coaches, trainers, managers, executives. With the new CHA mandate, by 2001 they'll all have to have a police records check. If you go on the basis that I know some police services boards do not charge, then if 60% charge \$20 you're looking at over \$1.1 million just for the Ontario Minor Hockey Association. Magnify that across Canada and there are some real financial issues to be dealt with there.

Plus, over the past 10 years, in hockey in particular and I represent only hockey here, we've put so many checks in place for volunteers, whether it be through going to clinics, getting your level 1, your level 2, your level 3, all the way up to, in some cases, level 6, that there are costs associated with each step. What we're doing is driving some of our volunteers away because no



longer can you just go to the rink and coach your son or daughter. You now have to address, "Can I afford to go to the rink and be a volunteer and coach my son or daughter?"

To some of us around this table \$25 is not a lot of money, but you have to realize that police records checks are not something that economically, from a social perspective, you can look at just from the simple fact that some people can afford it. There are a lot of people who can afford it. But to be a coach in today's environment you need to spend about \$500. That's your time, your clinics, your registration, your equipment. A police records check of \$20 to \$35 can sometimes make the difference in volunteers.

The Ontario Minor Hockey Association has a hard time attracting volunteers. It's not that they don't exist; it's that you need so many of them. If you look at volunteers across Ontario and Canada, the number is staggering.

The one issue I'd like to bring up—I actually had the opportunity to address it briefly with Peter a few minutes ago—is that it's not so much that we mind the fact that there are police records checks in place that cost money; it's that sometimes these volunteers are volunteering with their daughter's team, which is in a different association which needs to get a police records check. They then go to their son's team, which is in another association, and they have to get a police records check. They then volunteer in their church, and they have to get a police records check. That's three police records checks and each one of them is a cost.

There's the new initiative which you're all aware of through the Ministry of Tourism, Culture and Recreation. That's to create a database where you go once and then you go to the database to find out. I think that's an honourable goal and maybe that's where this committee should look at tying in with that group.

Police records checks are important to our children. They're important to the ongoing progression of society in weeding out individuals who should not be volunteering their time, but I think the key with police records checks is that we have to make them financially available.

1600

I'm not here as a proponent of no-cost police records checks. I think there's a cost to doing business even within police services boards. I'm here today to say that we need consistency, that we can't have some not charging anything and some charging \$35. It's unfair to our membership, in our particular case Ontario, that as it is the closer to the city you get, your costs increase, and the further away from your city, there are a lot more social policies in place with volunteering your time.

What we need to do is look for consistency, whether it's \$5, \$10 or \$15. Ideally, from the grassroots perspective, it's no dollars, but that's not always realistic.

I've left you some materials. They outline the position of the CHA, they outline some of the initiatives of the Ontario Minor Hockey Association, and they outline

some of the initiatives that I'm sure you already heard about yesterday in some of the talks from other volunteer groups, that this is a societal issue. I think society should step forward and be somewhat responsible. At the end of the day it could be your children, your family's children who are affected by this and you want them to participate in a safe environment.

**The Chair:** Thank you very much. We have about 15 minutes total for caucuses.

**Mr Peter Kormos (Niagara Centre):** Thank you very much, Mr Brown, and thank you for the brief time Frank Mazzilli and I had to chat with you before you made your presentation. I also appreciate that you're referring to the small, small minority of people involved, be it in minor hockey or any of these other volunteer organizations, who present these serious problems.

As a kid, I grew up—I know this will surprise my colleagues—in the Cub Scout movement. I was a good Cub Scout. I was a radical Cub Scout but a good one and a somewhat anti-authoritarian one. But I had my badges, including the rebel badge.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** How many?

**Mr Kormos:** Including the rebel badge, all the way down my arm. But again, I appreciate that. I mention my own personal background. Maybe I was lucky. I was involved with associations as a kid, with volunteer adults and young adults and I wasn't a victim, but obviously kids are—and seniors in situations where seniors are being cared for, persons with disabilities, any number of groups.

I was also pleased with the material you gave us. We get publications on a regular basis. Is this the OMHA magazine?

**Mr Brown:** Yes. I would suggest you don't get that. That's our first edition and it just went out last month.

**Mr Kormos:** OK, because I've never seen this in the office. I'd ask committee members to note that you marked the page where you actually had written an editorial-style article or an article about police records checks. This is the sort of publication many groups send us and it's probably a good thing. We don't read all of them, but in this instance your police records checks comments are—here it is—entirely relevant. You've also given us your OMHA Guidelines for Member Associations.

I took a look at appendix 6, which is the consent for criminal record search. This has been raised a couple of times, how various police services boards do it. My impression from appendix 6 is that if I come and volunteer, I sign the consent and your organization—help me with it—submits it to the police services board that's relevant?

**Mr Brown:** Yes. In most cases, it's up to the local police services board as to whether or not they will release information to a group or release it to the individual who's requesting it. We've done this form up to ask that the police services board release it to a bonded

individual, if they can. Many don't, but it's there for the associations that can.

**Mr Kormos:** There's another area of inconsistency across the province.

**Mr Brown:** Yes.

**Mr Kormos:** The Ministry of Culture database that's proposed, I'm aware of the announcement of the funds to this volunteer screening educational program, but you spoke of the database. I really don't know about that. What's your understanding of that component of it?

**Mr Brown:** Our understanding is that the ideal situation would be to have one database that you would go to. You would go for a police records check once, you would list yourself within that one database, and then you wouldn't have to go back depending on what volunteer association you're working with at the time. That whole program is in its infancy. I think the first public acknowledgement was only a couple of months ago, at least from my understanding.

I think what a database would do—we're trying to do one in hockey right now. I'll give you an example. If you're a coach in Toronto, you belong to the Greater Toronto Hockey League. If you're a coach in Ontario, you're a member of the Ontario Minor Hockey Association.

*Telephone ringing.*

**Mr Brown:** I'm sure that happens all the time, right?

**Mr Kormos:** I was hoping you'd answer it.

**Mr Brown:** No. This is probably an inappropriate time.

**Mr Kormos:** A jug of milk and two loaves of bread.

**Mr Brown:** What happens is, a coach will apply for a position in Toronto, be denied his position based on, hopefully, more than just a police record check, because by no means is a police record check the only tool that you should be using. But then they'll move up and go into Richmond Hill, apply for a coaching position and may be given it because that particular local association either didn't have the means to follow up on police record checks or didn't have that program in place.

What a central registry would do is, it would allow us to track that. We're trying to do that in hockey now. If you're denied a position, a volunteer role in one association—and our lawyers are working on the legalities of it right now—you would be tagged and entered into a database. Then it would be up to the other association because—going back to inconsistencies again—what constitutes information on a police record check that would deny you a volunteer role? In minor hockey it may be different than volunteering with a church group. It may be different than volunteering with an old age home. You run into the variables of what denies you through a police record check.

In our case, because coaches are driving children for a lot of the time, we promote that anything within five years to do with drinking and driving would deny you a role as a volunteer. But in an old age home, why should someone who may never have to get into a car be denied the right to volunteer? A drunk driving charge has no

significance whatsoever to their function in that volunteer position. Those are the further implications to what we're trying to do.

Dealing specifically with the costs—

**The Chair:** Could I just—

**Mr Brown:** Yes.

**The Chair:** I'm trying to give all the caucuses a chance here. Mr Mazzilli, you've got five minutes, and the opposition has five minutes.

**Mr Frank Mazzilli (London-Fanshawe):** Sure.

**The Chair:** Unless you want Mr Brown to continue.

**Mr Mazzilli:** Mr Brown, thank you for attending. As members of this committee, it has been helpful through the hearings yesterday and today to hear from leaders in different organizations and the difficulties and challenges that they have with volunteerism. What started out as a simple task has, I think, given us a reason to look at the entire function.

I know Mr Kormos feels the same way. We had some conversation before. What started out as a simple issue of a free service really does not address the entire problem facing all volunteer organizations or associations.

You're right, the initiative by the Ministry of Citizenship, Culture and Recreation is in its infancy. I certainly hope that we can have some more direction and information for your groups in the near future. I don't have any questions of you, but I just want to thank you.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** You were about to begin to discuss the costs. I think that follows up on the question Mr Kormos was asking. I understand that you are supportive of doing the security check but that there is potential for it to become overload if it's free. I think you were about to address the costs, and I would just invite you to continue with that.

**Mr Brown:** I think, regardless of whether there's overload or not, the issue is you need to have this in place. If it's overload, we have to address the overload issue. I don't want to be perceived as saying that there have to be no costs. I just want consistency. My feeling on no cost is that it makes it more accessible and acceptable.

Right now you have a volunteer. You tell them they have to be certified. They have to buy equipment. They have to donate all their time away from their family, from work at times. And then you have to say, "Well, on top of all this, we don't trust you and we want you to get a police record check." In most cases, it's not the police record check itself; it's the negative atmosphere that police record checks bring on to the volunteers. Then, to top it off, you have to go pay for it yourself.

**Mrs McLeod:** I apologize for having come in late. If you've addressed this, please tell me and I'll check the record. We had a presenter yesterday from the Boys and Girls Clubs who spoke to us about the cost of getting risk and liability insurance for a volunteer organization working with young people. He said it was \$18,000 for his particular organization, and \$10,000 of that was for abuse and harassment risk and liability protection. Are



you finding similar costs for minor league hockey associations?

**Mr Brown:** We have an insurance policy at the Canadian Hockey Association that's \$15.88, tax-inclusive. That covers you for everything, including—we now have a sexual harassment, sexual component clause in that policy. We also offer program directors' and officers' liability insurance to all of our members. When you add up the costs—there are significant costs there—we have 300 member associations in the Ontario Minor Hockey Association, each of them paying anywhere from \$350 to \$800 for directors' and officers' liability insurance.

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One of the reasons they have that is specifically related to the cases that could occur out of having a volunteer who may have been screened prior to their being involved. Significant costs.

**The Chair:** Thanks very much for your presentation.

**Mr Brown:** Thank you very much. I appreciate the ongoing concern from this committee.

**Mr Kormos:** I trust there are no more presenters.

**The Chair:** No, there aren't. That's our final presenter.

**Mr Kormos:** First, I want to thank the members of the committee for the incredible goodwill with which they've approached this issue. I know I spoke with Mr DeFaria about this a couple of months ago. That goodwill came from the Liberals certainly, Ms McLeod and Mr Bryant, as well as from the PA and the Conservative members. I'm grateful to the people who participated in the submissions. Having said that, I recognize that at the end of the day, the one day of submissions and the deadline for amendments, quite frankly, is grossly inadequate in terms of the issues that have been revealed over the course of even yesterday and by Mr Brown today.

Ms Street, who was here yesterday, came here with some background of expertise. She spoke about the broader whole volunteer screening program. Again, this bill was never intended to deny the need for that. But we had Ms Street talk about the tendency, for instance, to use criminal record screening as the first stage, simply as a blanket sort of screening process.

Mr Brown—and I hope I don't misinterpret anything he said—indicated that it's very much a fundamental or first stage thing because it permits you to screen out those people who are never going to be considered, who don't have a snowball's chance in Hades of ever meeting any of the other screening criteria.

But I do acknowledge because I'm forced to, the logic compels me to acknowledge, that if there is an over-utilization of criminal records—you're talking about an incredible cost here. Let's cut to the chase. There's no two ways about it. What also is tragic is the inferences we can draw from people who spoke here yesterday that there's a huge number of volunteers out there who have, never mind, not been screened on an adequate volunteer screening process, but who have never had criminal record checks even.

Again, I understand all the points about you can have a criminal record check today, be convicted in theory, not tomorrow because it would show up as an outstanding charge, but be convicted six months later. I understand the absence of a criminal record can't predict your behaviour. I appreciate that. Ms Street, you'll recall, was in agreement that the presence of a criminal record, especially for some types of offences, is a pretty good indicator that you shouldn't be near at least certain classes or certain groups of persons.

Mrs Elliott spoke with me earlier today and raised some interesting prospects. I'm grateful to her for that. I spoke with the parliamentary assistant subsequent to that phone call.

This bill is an important small piece of a broader issue. I know the ministry is working on this volunteer screening program. I also know how bureaucracies work in terms of producing stuff within timelines. Quite frankly, I think there's some urgency to this. I am really concerned about what would appear to be not just tens of thousands, perhaps even hundreds of thousands of people out there who have never been screened. My God, it's frightening. I think that's pretty clear.

I suspect that the majority of people here might have enough concern about this bill that if it were to be put to clause-by-clause, it might fail. It might. I don't want to prejudge the situation, but sometimes I have a capacity to read minds.

**Mrs McLeod:** I must say that I had a very different kind of information this morning.

**Mr Kormos:** Yes, and today I felt particularly telepathic. Quite frankly, that's fine, and I appreciate the candour.

What I'm proposing is that this bill shouldn't be voted down here in committee, nor should it necessarily be approved by a committee and sent back to the House for third reading, because there the whipping might be even more intense. What I'm suggesting is this, and I'll be making an appropriate motion in due course: I believe, subject to direction, the appropriate motion would be simply to move adjournment of the committee. It is a private member's bill. Government bills take precedence. Clearly, this bill won't return to this committee. First of all, the high-speed chase bill, Bill 22, has been sent to committee and we hope we're going to have a sub-committee meeting after this meeting. That may end up being just a one-day committee hearing. You can read minds. I'm helping you with some mental telepathy now, Chair. I'll let you predict the future.

In any event, whether or not this bill gets considered during the hiatus is up to House leaders. But it certainly will still be on the committee's agenda subject to any government business. I'm trusting that a mere motion to adjourn the committee at this point will suffice—having said what I did in prefacing that motion—will suffice to keep the bill alive and well and not force us into clause-by-clause the next time the committee convenes, but would permit an intervention by, for instance, the sub-committee to consider further action. Unfortunately, our

researcher isn't here. We wouldn't expect him to be here because he didn't anticipate having to do more responses to questions. But I trust that through the Chair or clerk we could put issues to the research person if that's the appropriate process.

**Mrs McLeod:** May I ask what Mr Kormos's hope would be in terms of the disposition of the bill if it's not voted on and disposed of today. I understand that even as a private member's bill, it would not be sustainable after the House adjourns for Christmas unless it has been dealt with prior to that. I'm not sure if a more comprehensive analysis of the situation facing volunteers, which I think is what Mr Kormos is getting at, is going to be possible within the time frame of the next 10 days. I wonder what his hope would be in terms of how we might handle the bill from this point on.

**Mr Kormos:** This is not only the season to be jolly but it is the season to wheel and deal among House leaders as we do midnight sittings and approach the Christmas break. It would be my hope that the House leader, who is advised of what is going to be proposed today, would acquiesce.

I'll be quite candid. This bill certainly can't become any broader-based whole volunteer screening, because I'm not sure that's a bill; that's a guideline, a policy, a regulation. I think there are things that can be added to this bill to address very specifically the issue of, let's say, floodgates or nuisance applications and their cost; the issue of who it is, who is to be eligible, a little more research about the differences from jurisdiction to jurisdiction across the province in consideration of that. I think there's some more substance that can be put to this bill, that will give effect to the bill, that will serve its purpose but also satisfy some of the legitimate concerns that have been raised as a result of the submissions being made.

**Mrs McLeod:** Is it not possible then for the committee by resolution to refer the bill back to the subcommittee for further consideration, or does it require an amendment of the referral motion from the House?

**The Chair:** I'd leave that until our researcher is back. We could postpone clause-by-clause indefinitely.

**Mrs McLeod:** So there's no time allocation motion of the clause-by-clause hearings. So then we're fine.

**The Chair:** We could do that.

**Mr Mazzilli:** I know Mr Kormos and I have had discussions, and I also move that the committee not proceed with the clause-by-clause today and that the bill be adjourned, and that's certainly done with consent.

What has come out through our discussions is that the good intent in the bill also has enormous difficulties and challenges. Some of the challenges of the clause-by-clause, as to whether they're probably legal or not—enormous issues for a private member's bill or a government bill. I think we acknowledge that. Nevertheless, the good intentions are there. I think, with consent, Mr Kormos wants to keep the good intentions going perhaps into the

wider scope of the whole volunteer initiative with the Ministry of Citizenship, Culture and Recreation. Certainly what he's looking for is time to see how all that will fit in. So we would consent to adjournment.

**The Chair:** I would suggest then—and we can have further discussion on this—the motion would be to postpone clause-by-clause indefinitely.

**Mrs McLeod:** I'm just concerned, if that's the motion, that it will go into limbo. While I can appreciate the fact that there may be some very appropriate amendments to limit the scope of the bill and members of groups or individuals who might be targeted by this, I would be equally concerned if organizations like the Anglican Church, the Boys and Girls Club and the hockey association, that have made presentations to it, who feel that the security checks are something they must do, are left with the significant cost of paying for those themselves.

To be quite honest with you, Mr Chair, I didn't understand until we began the public hearings on this bill what a significant problem this is for non-profit organizations. It has opened a Pandora's box, as Mr Mazzilli has said, of a whole lot of other issues. We don't have the scope to deal with all of those other issues here, but I would like at least to see us in a position, as a committee, to take some steps on an amended bill that people might be comfortable with. That's why I'm wondering if we can't refer it back to subcommittee so the subcommittee can in turn—

**The Chair:** It will remain on our agenda and we could call a subcommittee to deal with that. OK?

**Mrs McLeod:** As long as that's to be the case.

**The Chair:** Is there a motion?

**Mr Kormos:** If I may, Chair. Again, it's my understanding that the subcommittee says this isn't a time-allocated bill. The subcommittee can at any time convene to consider preparing a recommendation to the committee regarding the business of the committee.

Therefore, I would move postponement of clause-by-clause consideration of the bill.

**The Chair:** Indefinitely.

**Mr Kormos:** I think it's inherent in it, but if you want to add "indefinitely"—no, indefinitely is a long time. Wait a minute, I just realized that there are a couple of middle-aged people around here. I want to make sure I get chance to respond to it.

I move postponement of clause-by-clause consideration.

**The Chair:** That's the motion on the floor. All those in favour? The motion is passed.

I want to point out that we have just received another memorandum from the researcher. Before we adjourn, I just want to say we're going to have a subcommittee meeting to deal with Bill 22, which is Sergeant Rick McDonald. We'll adjourn the committee and have our subcommittee.

*The committee adjourned at 1624.*



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## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 13 December 1999

# Journal des débats (Hansard)

Lundi 13 décembre 1999

### Standing committee on justice and social policy

Sergeant Rick McDonald  
Memorial Act  
(Suspect Apprehension  
Pursuits), 1999

### Comité permanent de la justice et des affaires sociales

Loi de 1999 commémorant  
le Sergent Rick McDonald  
(poursuites en vue d'appréhender  
des suspects)

Chair: Joseph N. Tascona  
Clerk: Susan Sourial

Président : Joseph N. Tascona  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICYCOMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Monday 13 December 1999

Lundi 13 décembre 1999

*The committee met at 1542 in room 151.*

## SUBCOMMITTEE REPORT

**The Chair (Mr Joseph N. Tascona):** The meeting is in session. I think everyone has a copy of the subcommittee report. Mr Kormos, would you read it for us.

**Mr Peter Kormos (Niagara Centre):** I move that as a result of the subcommittee on committee business meeting of Tuesday, December 7, 1999, with respect to Bill 22, An Act in memory of Sergeant Rick McDonald to amend the Highway Traffic Act in respect of suspect apprehension pursuits:

“(1) That amendments be tabled with the clerk of the committee by 12 noon, Monday, December 13, 1999;

“(2) That the committee meet on December 13, 1999, from 3:30 pm to 6 pm for clause-by-clause consideration of the bill.”

**The Chair:** Any discussion on that? All those in favour? The motion on the subcommittee report is carried.

SERGEANT RICK McDONALD  
MEMORIAL ACT  
(SUSPECT APPREHENSION  
PURSUITS), 1999

LOI DE 1999 COMMÉMORANT  
LE SERGENT RICK McDONALD  
(POURSUITES EN VUE D'APPRÉHENDER  
DES SUSPECTS)

Consideration of Bill 22, An Act in memory of Sergeant Rick McDonald to amend the Highway Traffic Act in respect of suspect apprehension pursuits / Loi commémorant le sergent Rick McDonald et modifiant le Code de la route en ce qui concerne les poursuites en vue d'appréhender des suspects.

**The Chair:** Are there any amendments to section 1?

**Mr Kormos:** This has been tabled with the clerk as NDP motion, alternative 1. I should indicate that three amendments were tabled with the clerk. I will not be introducing the first amendment in the package. I would ask that people please note that on page 2 of the tabled copy of the amendment—there are two and one-half pages—there's a subsection (1.4), “Service on driver is

deemed service on owner and operator.” I will not be reading that in, in my motion to the amendment. In effect I will be deleting it from my amendment. So notwithstanding the tabled hard copy of the amendment, I will be deleting that in the amendment I move, and I will be adding subsection 1.5(i) following the section 1.5, a very brief line that I trust will be self-explanatory when I read the amendment.

**The Chair:** That's on page 5?

**Mr Kormos:** Page 2. In the upper right corner it's identified as page 2. It's page 2 of the second amendment that's been tabled.

**The Chair:** I understand.

**Mr Kormos:** Perhaps the fax copy notation is page 5.

I move that subsection 1(1) of the bill be amended by adding the following subsections to section 216 of the Highway Traffic Act:

“Contravention of subsection (1), impoundment

“(1.1) Where a police officer or officer appointed for carrying out the provisions of this act is satisfied that the driver of a motor vehicle has contravened subsection (1), the officer shall impound the vehicle.

“Intent of impoundment

“(1.2) The impoundment of a vehicle under subsection (1.1) is intended to promote compliance with this act and to thereby safeguard the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

“Notification

(1.3) The officer who impounds a motor vehicle under subsection (1.1) shall,

“(a) cause the registrar to send notice of the impoundment to,

“(i) the owner of the motor vehicle at the most recent address for the owner appearing in the records of the ministry; and

“(ii) every person who has a security interest in the motor vehicle that is perfected by registration under the Personal Property Security Act; and

“(b) cause notice of the impoundment to be served on the driver.

“Application of subsections 55.1(9) to (29)

“(1.5) If an officer impounds a vehicle under subsection (1.1), subsections 55.1(9) to (29), except clause 55.1(14)(b), subsections 55.1(16) and (17) and clauses 55.1(28)(a), (e) and (g), apply, with necessary modifications, as if an order to impound the vehicle had been



made under subsection 55.1(3), and, for that purpose, a reference in section 55.1 to 'the order to impound or notice of it' shall be deemed to be a reference to the notice served under clause (1.3)(b).

"(1.5)(i) There will be no impoundment of a vehicle under this section if the vehicle was stolen from its lawful owner at the time of the offence.

**The Chair:** This is (1.5)(i)?

**Mr Kormos:** "(1.5)(i) There will be no impoundment of a vehicle under this section if the vehicle was stolen from its lawful owner at the time of the offence."

**The Chair:** Has everybody understood that and written it down? Proceed.

**Mr Kormos:** "Forfeiture

"(1.6) If a motor vehicle is impounded under subsection (1.1), the vehicle is forfeited to the crown on the 31st day after it is impounded.

"Relief from forfeiture

"(1.7) Subsection (1.6) does not apply if the owner of the motor vehicle or any other person mentioned in clause (1.3(a) or (b) applies to the Superior Court of Justice, not later than the 30th day after the vehicle is impounded, for release of the vehicle.

1550

"Parties

"(1.8) The owner, the applicant (if the applicant is not the owner), the Attorney General of Ontario and any person added by the court are parties to an application under subsection (1.7).

"Grounds for release

"(1.9) The only grounds on which a person may apply under subsection (1.7) and the only grounds on which the court may order that the motor vehicle be released are,

"(a) that the motor vehicle was stolen at the time in respect of which it was impounded;

"(b) that the driver of the motor vehicle at the time in respect of which the vehicle was impounded did not contravene subsection (1);

"(c) that the owner of the motor vehicle exercised due diligence in attempting to prevent any contravention of subsection (1) by the driver of the motor vehicle at the time in respect of which the vehicle was impounded; or

"(d) that the forfeiture of the motor vehicle will result in exceptional hardship.

"Exception

"(1.10) Clause (1.9)(d) does not apply if any other vehicle owned by the same owner has been forfeited to the crown under this section.

"Payment of removal, impound costs

"(1.11) Despite an order to release the motor vehicle being made by the court, the person who operates the impound facility is not required to release the motor vehicle until the owner or another person pays the removal and impound costs related to the impoundment of the vehicle.

"Forfeiture

"(1.12) If an application is made under subsection (1.7) and the court does not order the release of the motor vehicle, the vehicle is forfeited to the crown.

"Definitions

"(1.13) In subsections (1.1) to (1.12),

"operator' has the same meaning as in section 55.1;

"owner' means the person whose name appears on the certificate of registration for the vehicle, and, where the certificate of registration for the vehicle consists of a vehicle portion and plate portion, means the person whose name appears on the vehicle portion."

**The Chair:** Seeing that the amendment has been slightly altered since the deadline, I'm going to ask for unanimous consent for us to consider this amendment. Do we have it?

**Mr Frank Mazzilli (London-Fanshawe):** No, you do not. I've expressed to Mr Kormos that we certainly would not be supporting this amendment.

**The Chair:** That's not my question.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** Mr Chair, if I may: I don't believe that's something you can require of the committee. I think that if an amendment has been duly placed, and Mr Kormos is the mover of the amendment, it's subject to a friendly amendment which he has made. I'm not sure there's anything in the rules of procedure which requires unanimous consent for an amendment to be considered.

**The Chair:** OK.

**Mr Mazzilli:** Mr Chair, I'll withdraw and give unanimous consent.

**The Chair:** For the record, there's unanimous consent for the amendment to be somewhat amended by Mr Kormos.

**Mrs McLeod:** Mr Chair, if I may—

**The Chair:** If I may, I just want to finish what I was going to say here. The amendment is in order. Ms McLeod.

**Mrs McLeod:** I don't particularly want to make an issue of this. I'm not keen on the committee having had to meet to consider a bill that we were ready to give first, second and third reading to when it was presented. But I am concerned about the statement you've just read into the record in terms of future proceedings of the committee. I would like some clarification as to whether or not there is any rule of procedure that allows the Chair to determine that it requires unanimous consent to introduce an amendment when an amendment has been duly tabled.

**The Chair:** We're talking about an amendment to the amendment.

**Mrs McLeod:** Similarly, I want some clear record that that is not a proper rule of procedure and we will not encounter this in future in this committee.

**Mr Kormos:** I appreciate the Chair's observation about the amendment. However, I would submit, very briefly, that (1) the modest changes did not detract from the broad substance of the amendment as tabled, (2) it's clear that typographical errors can be corrected with respect to amendment, and (3) during the course of debate it would have been possible to amend the amendment in any event even by myself.

I agree with the proposition submitted to you. With respect, it's moot at this point in this instance. I trust that if it were to arise again in a similar fashion, it would be

the subject matter of perhaps a little more consideration before there's a call for mere unanimous consent.

**Mr John O'Toole (Durham):** Mr Chair, I would like a clarification from leg counsel and I'll tell you why. I could move a non-frivolous amendment under the subcommittee's agreement and then totally amend it, and that would be a substantive amendment to an amendment. Who makes the call about the substantive nature becomes the issue. Do you understand what I'm saying?

If it says that we agreed they would be filed by noon and I'm changing a comma, a spelling or whatever, I have no problem. But if I'm substantively changing the initial amendment based on the premise that it's technically legal to amend it during the debate, then I have a serious problem with that. I don't want to tie things up. Do you understand my point?

*Interjection.*

**Mrs McLeod:** Nor do I.

**Mr O'Toole:** If these are not substantive amendments—

**The Chair:** I want to explain my decision. The subcommittee, which was endorsed by this committee, moved by Mr Kormos, indicated that amendments be tabled with the clerk of the committee by 12 noon, Monday, December 13, 1999. Mr Kormos was the only member who did that. As we came in today, he indicated he was amending his amendment and he in fact did that. What I sought was unanimous consent from the committee so that he could do that, which was received. What I'm following is basically what was followed by the committee and subcommittee and was endorsed, and I stand by that ruling.

**Mrs McLeod:** In order not to delay, at the next meeting of the committee could we have some clarification as to the process for both tabling amendments and the rule on the procedure for considering amendments at committee. That's all I would seek.

**The Chair:** At the next subcommittee?

**Mrs McLeod:** I think we need it on record at the committee, in terms of rules of procedure, that it does not require unanimous consent in order to present amendments.

**The Chair:** If it comes up next time—we're dealing with my ruling. Are you challenging it?

**Mrs McLeod:** I won't challenge it in this case, since it becomes a moot point. But I would like some clarification of rules of procedure for the future for operation of the committee.

**The Chair:** Certainly you're at liberty to do that. Let's proceed. Is there any discussion on this amendment?

**Mr Kormos:** This gives effect to what we discussed in the Legislature and the comments I made during the course of brief second reading debate of this bill. To a large extent, it uses some of the language that was used in this government's amendments to the Highway Traffic Act, which dealt with penalties for driving under suspension when the suspension flowed from a Criminal Code conviction, drunk driving etc, to give effect to impound-

ment. Impounding a vehicle, in this context, would frankly be somewhat silly, especially when it talks about second and third offences.

I should indicate that in the comments I made in the House, I made reference to, or tried to characterize, the types of drivers and vehicles that were involved in high-speed chases. I based that only on anecdotal evidence. I asked the ministry if they would provide data in time for today about who gets involved in these high-speed chases. That's not before us. That's fine.

I suggested in the legislative debate on second reading that probably the biggest single chunk of high-speed chases were initiated by drunk and/or suspended drivers. I've been contradicted by a number of commentators since then. Again, I asked the government to provide us with the data. But it doesn't really matter. It may well be that the largest single number of high-speed chases are initiated by the drivers of stolen vehicles, not so much the professional car thieves who run the rings that steal Mercedes, BMWs and other cars like that from the members' parking lot here at Queen's Park, but the joy-riding context where obviously very foolish and reckless people steal a car and then try to avoid apprehension.

I don't have the data, but even if that's the majority of operators or the majority of circumstances in which police are taking off on high-speed chases, so be it. This, as I say, relies heavily on the concept that the government utilized in its impoundment philosophy with respect to driving under suspension.

1600

This provides not only for impoundment, because you've got to give the police a chance to seize the vehicle, to wit, impoundment; it specifically excludes stolen vehicles.

Doug Beecroft, legislative counsel, did a tremendous amount of work in a very brief, compacted period of time. He and I weren't able to spend weeks making exchanges back and forth. Legislative counsel did a tremendous job of putting this together in a relatively short period of time and I provided it to the government at the earliest opportunity, to wit, earlier today, well before the 12 noon deadline.

The reason I'm moving these amendments is because we talked about the fines and the prospect of imprisonment when, tragically, there's bodily harm caused. I'm talking here about getting tough. This obviously doesn't apply to stolen vehicles. Owners of stolen vehicles shouldn't be punished for what the criminal does with their vehicle. It certainly applies to people who use their own vehicles. That would be some of those cases where drunk and/or suspended drivers—and I use the exegetical "or" here rather than the conjunctive "and"—take the police off on high-speed chases where it's their own vehicle.

I think that not only should there be the heavy fine imposed but that vehicle should be forfeited to the crown. Seize the vehicle. Don't just create a monetary penalty. Take the vehicle. I don't care whether it's a 15-year-old vehicle that's worth \$3,500 or whether it's a new vehicle,



a BMW, what have you, that's worth \$45,000. You want to send a message out there saying, "You play around with police and generate these kind of pursuits and you ain't just talking about fines." You aren't just talking about the prospect at the end of the day, and I'm not criticizing the government, of relatively modest jail terms under the Provincial Offences Act, at least, because obviously if there's bodily harm, death ensuing, I have no doubt that a Criminal Code charge is going to be pursued, but that vehicle is gone.

That applies to owners. It also applies to people who would lend their vehicles to others. I think there has to be some responsibility accepted by me if I lend Ms Martel my vehicle and she engages in behaviour with that vehicle that is so criminal, so reckless as a high-speed pursuit, then I think there should be some responsibility on my part to have used my discretion. You'll note that's (1.9)(c) "that the owner of the motor vehicle exercised due diligence in attempting to prevent any contravention...."

The due diligence, when you're lending a vehicle, I can see is pretty hard to establish. Part of it is making sure that I know, obviously, any propensity she might have if I'm lending her my vehicle, but this applies more so—please, Mr Mazzilli—to the fact that if I'm a passenger in my own vehicle and my cohort is the driver of the vehicle, and that cohort, after getting all drunked up, decides not to stop for the police and figures he or she can outwit them on a high-speed chase, that's where the due diligence really starts to become significant, doesn't it, as compared to merely saying, "I'm just a passive bystander."

You know the law, Mr Mazzilli. The passenger of that motor vehicle can get away with a lot in the current status of things. "I just sat there passively, didn't do anything to encourage but nor did I do anything to discourage."

Here due diligence would apply very much to the owner of the vehicle who chooses to be a passenger and does nothing. That means that the owner of that vehicle had better, again, think twice about encouraging or simply remaining passive when a driver has taken that vehicle off on a high-speed chase because the owner of that vehicle, although he or she may not be the driver, can be subject to forfeiting the vehicle. Quite frankly, the crown could use these vehicles. Undercover cops need vehicles all the time. The feds—you know what's happening, Mr Mazzilli—are scooping up all the proceeds of crime stuff and very little of it trickles back to local police forces.

That having been said, it also includes and considers people who have a personal property security interest, the lien holders, against a vehicle. That would go to the exceptional hardship consideration where a lien holder, even if it is a bank, or a person who had an interest in the vehicle, perhaps even a spousal interest—I'm not going to try to determine all of the considerations, but in terms of joint property, community property, matrimonial property—could argue under the exceptional hardship. Clearly there they could make a case that they had no

control over the driver at that point in time and couldn't exercise due diligence. It would be beyond their scope if you lease a vehicle and a year later that driver, who for all intents and purposes appeared to be law-abiding—

It also deals with rental vehicles. There you've got the exceptional hardship consideration. These people can go and apply and say, "No, we're in the position of a rental vehicle." And of course stolen vehicles are excluded.

It does permit—because the impoundment effectively turns into a confiscation after 30 days, so it does require notice to be given to all the interested parties. All that has to be done is an application has to be filed. The determination doesn't have to take place for the impoundment to be lifted. If you don't have the impoundment, forget about the vehicle a year down the road when the trial happens, because the clever owner of a BMW who is inclined to lead police on high-speed chases is also probably inclined to sell the vehicle before they go to court. That deals with a subsequent amendment that the committee might want to consider.

Again, I've used the government's model. I've relied upon the government's model for these amendments. It raises the price of poker; it raises the ante. Will it cover most high-speed-chase situations? Maybe not, and even probably not, because if indeed I was wrong and most high-speed chases are the result of stolen cars, then this obviously won't cover most of them. Will it cover some of them? I'm convinced yes.

You want to talk about sending messages out there. The vast majority of people—this much I think we can acknowledge—who take police off on high-speed chases are not the bona fide bank robber, organized crime type of character. Those are there, but in terms of the high-speed-chase scenario primarily these are stupid and reckless people who naively and dangerously think they can either outwit the cops or outrun them. As often as not it doesn't happen, but unfortunately when the attempt is made, we don't have to argue about the fact that it's posing great danger to the community, to police officers, and that the goal here is to end high-speed chases.

I'm submitting to the government that (1) having relied on most of its own framework and (2) accepting the government at its word, saying it wants to get tough on this stuff, then let's get tough.

Is there going to be paperwork involved? Of course there is. Is the registrar going to have to be involved? Is the police officer? Mr Mazzilli, you know this. When a police officer's involved in a high-speed chase, there are reams and reams and hours and hours of paperwork in any event. There's far more time spent at the police station preparing and filling out forms, general occurrence reports, arrest reports, booking reports, the whole nine yards, that far exceeds the period of time that the high-speed chase took place.

Does it involve paperwork? Yes. Does it involve expense at the end of the day? Somebody's got to pay, no two ways about it. But also at the end of the day, let's get serious about penalties for high-speed chases. This isn't the total solution. The legislation, even with my



amendments, is not the complete answer to the issue; of course not. But, Mr Mazzilli, your government bill with merely escalated fines and some periods of jail time, I submit, although something of an answer, can be beefed up by imposing these confiscations, as this amendment does.

I leave it at that. I think the bill very much speaks for itself. People out there who are interested in law and order, people out there who care about the safety of our police and our community, I think, would endorse this type of amendment.

1610

**The Chair:** Thank you, Mr Kormos. Any further discussion?

**Ms Shelley Martel (Nickel Belt):** I'll be brief because my colleague, I think, has explained quite fully the reason for the amendment and has tried to answer any questions the government might have.

I am hoping the parliamentary assistant is reconsidering, rethinking what seemed to be his first response, which was that the government was going to defeat this. I would find that regrettable for two reasons.

As I heard the government's remarks on this during the debate, the government talked quite extensively about the deterrent that was required that would stop people from engaging in police chases. The government relies heavily on the fine and the fact that there could be imprisonment in order to act as a deterrent to those who might be silly enough or, for whatever reason, might engage in police pursuits.

What we are saying is that this amendment clearly acts as yet another deterrent for those who might want to engage in this kind of activity. It will be a very serious deterrent because it will be the loss of their property, which as my colleague pointed out, may be only \$3,500, or may be \$35,000. But in terms of following closely on what the government put forward as the reason for this and the mechanism to reach deterrents, this clearly falls in line with that.

Secondly, this appears as an additional deterrent. It doesn't take away from Bill 22 in any way, shape or form. It doesn't take away from any of the fines that might be imposed. It doesn't take away from the possibility of imprisonment which might result for those who are engaging in high-speed chases. It is moved in addition to any number of other mechanisms that the government has outlined in the bill. There is no reason to look at it as something that is exclusionary, as something that might cause a problem with respect to the other penalties the government would wish to apply. This has to be seen, and is, quite clearly, in addition to any other penalty that comes forward in the bill.

I would remind you that there has been unanimity with respect to support of the bill from the beginning. This strengthens what is a good bill. It adds to what is a good bill. I hope the government would reconsider its position and would in fact end up supporting this amendment.

**Mrs McLeod:** I too will be very brief, Mr Chairman. I'm a little bit surprised to find the government members

are not planning to support an amendment that, if we had different terminology available to us, would probably be called a supplement rather than an amendment since it doesn't change any aspect of the bill that the government has presented. It's much more typical in committee for opposition members to be attempting to actually change a government bill. In this case, this is a supplement and a strengthening of the government bill. I would have expected that a government that makes law and order its number one priority would want to support any changes that come from opposition that would actually enhance the law-and-order focus of its own legislation. That's one reason why I was surprised they were not going to support it, and I would hope that would be reconsidered.

My second reason, quite frankly, for hoping the government would at least consider this seriously is that it would give some justification for our committee meeting today. This is a bill that the opposition parties have indicated support for. Our critic, who couldn't be here today, and other speakers on this bill, our House leader, said that we were ready to support this bill on first, second and third reading. The government has not tabled any amendments to its own legislation. We've not seen fit to table amendments. I appreciate the fact that Mr Kormos has brought forward an amendment, which I think strengthens the bill and which we can support as a result of that, and I appreciate the fact that he gave us some reason for being here today.

I guess I was a little perturbed when I saw that we were going into clause-by-clause committee hearings on a bill that could have had third reading virtually the day it was introduced because of all-party support. One of the reasons I'm perturbed is because there was another bill that was passed with third reading today which we should have been debating in front of the justice and social policy committee today, and that's Bill 23, which did require significant amendments, particularly amendments that were called for by virtually all of the health care professionals, and yet the government was not prepared to have that even come to committee for consideration of clause-by-clause, let alone the tabling of any amendments.

So I appreciate Mr Kormos having brought forward a substantive amendment, which at least gives the committee something to consider, rather than simply having used this bill which we all support as a dodge to give the committee work to do instead of dealing with the bills, like Bill 23, that it should be dealing with.

**Mr Mazzilli:** Let me start by acknowledging that there is three-party support for this bill, so the meeting today is simply on the amendment and then clause-by-clause. I acknowledge that and the family of Sergeant Rick McDonald acknowledges that.

In relation to the amendment, let me start by saying, yes, Mr Kormos has followed the government plan from the beginning in relation to impaired driving, but there is a significant difference. When the police stop an impaired driver, in the vast majority of cases the motor vehicle is driven by the registered owner, so the im-



pounding of a vehicle and the consequences of who pays at the end of the day is the registered owner, and that's the intent.

The impoundment or the seizure of motor vehicles for a certain period of time is something new in Ontario. It's something that, yes, we initiated. It's something that we will also have to evaluate to see whether this is the way to go in the future on other offences.

Having said that, it also causes enormous difficulties for police departments because at some point you seize a vehicle and, like everything else you seize, you have to keep track of it in a bureaucratic process. I can tell you that at some point vehicles do get lost in the shuffle, and tow charges build up, enormous tow charges, because someone has forgotten about making a release order on a vehicle at some point. I can't say I have ever forgotten in the past and police departments received a \$2,000 tow charge bill and heads roll. So the amendment is very honourable.

But in the case of police pursuits, what our government has attempted to do here is to make the person who flees from police responsible. Responsible in what way? Certainly by higher fines; certainly by a minimum jail sentence, 14 days. As Mr Kormos knows, a second impaired driving conviction, if you prove the second conviction, of course, would have a similar sort of penalty as this does in the Highway Traffic Act. Is it enough? Probably not. The Provincial Offences Act, six months maximum, is as far as our government, the province of Ontario, can go. We urge the federal Liberal government to go further and I think I'm also supported by the provincial Liberal Party on that position, so we'll wait to see what the federal Liberal government does.

Let's go back to pursuits. Who is involved in the vast majority of pursuits? The figures were not provided for Mr Kormos and I don't know; they were not asked through me. But in the vast majority of police pursuits, it's not the registered owner of that vehicle who is fleeing from the police. Either the vehicle is borrowed or it was stolen. A simple amendment like this, although it seems innocent and wants to do the right thing—notice how in the stolen vehicle one, the wording is something to the effect of "if known at the time of the offence" or something like that.

In the province sometimes police officers pursue a vehicle, and not for provincial offences because that's against the guidelines, right? So for suspended drivers and so on, police cannot pursue those people. It's against the pursuit guidelines. So when we use statistics like it's your speeders or your suspended drivers, that's just not true, because that's against the guideline so there wouldn't be a pursuit in the first place.

It has to be criminal in nature. So a stolen vehicle that certainly belongs to somebody else: At the time it's pursued or at the termination of the pursuit, it's found that the vehicle doesn't come back stolen and it takes two or three days, maybe, to find the registered owner. At the time of the offence, did you know that vehicle was stolen? No. Now you start this process where you

impound the vehicle, and now it sounds like the registered owner, an innocent victim who had a vehicle stolen and just was not around to report it right then, somehow has to go through a legal process to get that back.

Again, my position as parliamentary assistant to the Solicitor General, our government's position, is that this is all about making the criminal responsible. If you flee from police knowingly, the fines have been increased; there's a jail term at the end of it. That is simply the intention, not to create another bureaucratic process for the police and the courts to follow. Those are my submissions.

1620

**Mrs McLeod:** Do I understand then that the government's concern with the amendment is that if there are a sufficient number of police high-speed chases, there could be too many cars to track and that some might get lost in the process, and that the concern now is with the victim, who might be the owner of a car that was involved in a high-speed chase and would lose their vehicle?

It seems to me if that's the government's concern, we've gotten rather a long way away from a concern for potential victims of high-speed chases.

**Mr Mazzilli:** I've placed several concerns on the floor. I think you're concerned about one. Is there a tracking issue? Absolutely. There always is any time you're taking in any type of property, so by adding one more bureaucratic process to it all—and let's face it, we have always said that we want more front-line officers dealing with the public. This amendment does not do that.

I know there's a roomful of lawyers, and lawyers generally have the ability or the luxury of going to a law library after the fact and researching everything. Police officers do not have that; the decision has to be made at the time. So when I look at a bill that initially addresses fines—and that's what it is, fines and penalties for the person who has committed the offence—then we go to an amendment that has all kinds of exceptions to it. Who would remember all these exceptions?

Those are the end of my submissions. Our focus is to keep police officers on the street and double the fines and jail penalties for the people who have committed the offences.

**Mr Kormos:** Just in response briefly, Mr Mazzilli, impounding a vehicle is not a complicated process. In most parts of this province you call up Cease James Towing or whoever happens to be next on the list—because surely you use a list; you don't favour any particular tow truck company—you have them come and get the vehicle, he or she tows it to their compound and, bingo, it's impounded. I've never heard of competent police officers losing a whole motor vehicle.

In all my experience throughout this province, I am unaware of a motor vehicle being lost. Sometimes notebooks get lost; I understand that. From time to time I lose personal items myself, to my great regret. From time to time small things get lost. In the event of a stolen

vehicle, a prima facie stolen vehicle, one that's been reported stolen, you impound it anyway, don't you, Mr Mazzilli? You don't tell the offender, when he or she is released on bail, "Go ahead, your car is out back and here's the keys."

Quite frankly, any vehicle involved in a high-speed chase is not going to be released, Mr Mazzilli. You know this, don't you? Of course you do. It's not going to be released to the offender when the justice of the peace says: "OK, Mr Jones, Ms Doe, you've just led the police on a high-speed chase. You're charged with this offence. By the way, here's the keys to your car." Mr Mazzilli, I think you exaggerate that particular difficulty. But that's fair enough.

Please, let's not turn this into a debate about more police officers, because I've read about what your minister said over the weekend. He said, "Municipalities are on their own from this point on." He said, "It's too bad, so sad; you guys are on your own." That's what he said to the regional municipalities.

The other thing that I think should be considered is the prospect of federal legislation. Please, listen carefully to this one. I am pleased that the province is moving forward with this, and there is every appearance that the federal government is going to again follow suit.

Understand what this will do. If there are two pieces of legislation, one federal and one provincial—one Criminal Code, one provincial offences—and they both effectively do the same thing, both aren't going to be pursued in a court, are they, Mr Mazzilli? Of course not.

What is going to happen is that the provincial offence will be withdrawn—hopefully it will be the provincial offence; that's assuming the federal offence carries with it a heavier penalty, and certainly a criminal conviction—and the Criminal Code conviction will be proceeded with, unless, Mr Mazzilli, the provincial offences offence—to wit, this Bill 22 with its amendment—does something above and beyond and different than what the federal code offence does by way of consequences, right?

If this amendment is included, this will give prosecutors the capacity, in my submission to you, to proceed not only on the federal Criminal Code conviction to get a conviction and a penal consequence, but it will also permit them to proceed on the provincial offences offence to pursue the goal of confiscation of the vehicle.

I'm submitting to you that you are treading on unfortunate ground and I appreciate that if you don't want to pass it, you won't, and I understand that. You've been very candid with me, I've got to give you credit for that, throughout the whole course of this debate.

I should tell Mrs McLeod that the reason this committee is meeting today is because I very much wanted this committee to meet today. It was originally the House leaders who agreed to two days. I indicated to Mr Mazzilli and to the House leaders that we didn't need two days. If it was going to be dealt with, I needed an opportunity to present two amendments.

That's my response to the debate. I call the question and I look forward to the votes.

**The Chair:** We'll vote on this amendment.

**Mr Michael Bryant (St Paul's):** Recorded vote.

### Ayes

Bryant, Kormos, McLeod.

### Nays

DeFaria, Elliott, Mazzilli, O'Toole.

**The Chair:** I declare the amendment lost.

We have another amendment.

**Mr Kormos:** I move that subsection 1(3) of the bill be struck out and the following substituted—"struck out" is a mistype.

**Mr Douglas Beecroft:** It strikes out subsection 1(3) of the bill.

**Mr Kormos:** Oh, of the bill, OK. Thank goodness. I thought we were going to have to seek unanimous consent again, Chair. Holy moly, I was nervous there. Once lucky, twice what? I don't know. Thank goodness for legislative counsel.

I move that subsection 1(3) of the bill be struck out and the following substituted:

"(3) Subsection 216(6) of the act is repealed and the following substituted:

"Forfeiture:

"(5.1) If a person is convicted of an offence under subsection (2), the court may make an order that the motor vehicle that was being driven by the person at the time of the offence be forfeited to the crown in right of Ontario.

"Appeal of suspension or forfeiture:

"(6) An appeal may be taken from an order under clause (3)(c) or subsection (5.1) or a decision to not make such an order in the same manner as from a conviction or an acquittal under subsection (2)."

The Conservative members of the committee didn't want to accept the previous amendment. Fair enough. I disagree but that's OK. We'll probably disagree about tough penalties in this type of offence for a long time.

But here's a second kick at the can, if you will. This doesn't involve the difficulties Mr Mazzilli purports are inherent in the first amendment. It simply makes it a part of the sentencing process. A judge may order forfeiture of the vehicle that was used in the offence—"may," not "shall."

All the arguments that Mr Mazzilli made against the former amendment carry no weight with respect to this one because it doesn't involve losing vehicles, it doesn't involve more police time, it doesn't involve determining whether or not a vehicle is stolen at the time of the offence; it involves a process, after conviction, where a judge may order confiscation of the vehicle: straight-forward, simple. It ups the ante for people who take our cops on high-speed chases. These same criminals who take police on high-speed chases are exposing the public and police officers to incredible risk, to incredible



potential for injury and death. I agree with the government to "Let's get tough on high-speed chases." If we're going to do it, let's do it right.

1630

The reality, Mr Mazzilli, is you've been here now for six months. I'm sure it seems like much longer, doesn't it? But, Mr Mazzilli, you like everybody else who is new here comes full of enthusiasm and full of a sense of an understanding of Parliament that is quickly the subject of disillusionment. You came here thinking that, boy, if things can happen so quickly and if you really drive an issue, you can get it on track and you can turn it into law. You and I both know that this bill, Bill 22, is unlikely to be revisited for a good chunk of time.

This isn't a new issue. It wasn't until these final days of the Legislature—Bill 22 I concede is not in itself a complex bill. It didn't take a long time to be drafted. But it only got presented for first reading on November 25. You know it wasn't at the top of the lineup when all those cabinet committees and inter-ministerial committees, the inner circle, the inner cabinet and Lord knows what all those things are did all the screening.

This bill will not be revisited in this Legislature for more than a little bit of time, no matter how much you or your colleagues may want it to be, or Mr Bryant or Mrs McLeod or I would want it to be.

Let's do it right. Here we are. You weren't happy with the previous amendment. I disagree with you; I find it unfortunate. This gives the judge, as part of the sentencing process, the discretion to order forfeiture of the vehicles.

Will it be utilized very often in view of the circumstances that we're inclined to all agree on about what is involved when you're talking about high-speed chases? Probably not. Most of them are stolen vehicles. Fair enough, if indeed that's what the data are. I have no quarrel with that. But for those vehicles that aren't stolen, let judges have the sentencing discretion to include confiscation of the vehicle.

When some criminal loans some high-powered BMW, Porsche or Jaguar, what have you, and figures that he or she is going to take the cops off on a high-speed chase, let them be convicted and let them pay a monetary penalty. If there's been bodily harm, let them go to jail. Let some undercover police officer drive that same BMW, Porsche, Jaguar or indeed—well, why not? I've got no sympathy for the criminal—what the heck, I don't care if you sell them off and pay down the debt. Hold an auction. It's not that complicated, sir.

I urge you, Mr Mazzilli, as parliamentary assistant to the Solicitor General—I believe you when you say you want to get tough on this stuff, I believe you and I want to support you every way I can. I want to do everything I can with this government to get tough on these types of offences and on other types of crimes that put the community at great risk and cops at great risk.

Let's not just talk about it. Let's do it. Here's our chance. The bill simply gives sentencing judges or justices of the peace or whoever might be hearing these

trials to also order confiscation of the vehicle. There you are. Please.

**Mr Mazzilli:** Certainly Mr Kormos's position on law and order issues to date has been impeccable, and I'm sure the policing community supports all those initiatives. This is an area where Mr Kormos knows that in this type of hearing it wouldn't be a judge who hears it; it's a justice of the peace who would have to make such a decision. Now the decision that we want the justice of the peace to make is not only penalties but to take into account forfeiture, which is really a new area of highway traffic management, if you will, something we've not got into.

I would take the position that I would want the justice of the peace to refocus and consider penalties, as opposed to the forfeiture of Pintos and 1969 Chevy Impalas that at the end of the day it may cost the crown money to dispose of these vehicles. Those are my remarks.

**The Chair:** Thank you. Recorded vote.

**Mr O'Toole:** Mr Chair, just one comment. I want to make sure I am accurate in what I heard. Mr Kormos was saying that our government wasn't moving fast enough. I heard repeatedly in the House that we're moving too fast. I want to record that as duly noted. Also, I think his attitude—his changing attitude I might add—toward the debt is worth noting for the record. That's through you to Mr Kormos. Will you give that to him, please?

**Mr Kormos:** I shall respond. It's unfortunate that Mr O'Toole doesn't pay attention in these debates, because Mr O'Toole should listen carefully to what people say. Nothing should be done in haste to the point where it's done irresponsibly. Mr O'Toole should be well aware that I've been concerned enough about the debt to be concerned about the fact that this government has generated new debt in the exercise of promoting bigger and bigger tax breaks for the wealthiest people in this province.

Please, Chair, the issue here is this bill. One thing I haven't changed is my attitudes towards ensuring that our cops have the tools to do their job. Let's give it to them by accepting this amendment.

**The Chair:** Thank you, Mr Kormos.

### Ayes

Bryant, Kormos, McLeod.

### Nays

DeFaria, Elliott, Mazzilli, O'Toole.

**The Chair:** The amendment is lost.

Shall section 1 carry? Any discussion? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry?

**Mr Kormos:** I want to speak to section 3, please.

**The Chair:** I thought you wanted to speak to the long title.

**Mr Kormos:** You want me to speak to the long title? OK, go ahead.

**The Chair:** Shall section 3 carry? Carried.

Shall the long title of the bill carry?

**Mr Kormos:** We're supporting this bill here in committee, as we did on second reading, as we did on first reading. You will recall that I encouraged Mr Mazzilli to get this brought into the House for second reading for fear that it won't get dealt with by the House before the Christmas break. Christmas season is a little bit of a higher-risk season for high-speed chases because of the nature of what's going on out there in our communities.

What with these extended drinking hours for New Year's Eve, I'm anticipating even more concern, which at the end of the day simply means drunker people out there in even greater numbers. It's unfortunate that that didn't come to the Legislature for debate, but nonetheless, the ministry has the power to do that.

I'm disappointed about the lack of amendments or the failure of the two amendments I put forward to be accepted; also, I suppose, disappointed by the fact that I announced these amendments to the ministry. I declared my intention and my concern about the lack of these tough penalties—*forfeiture, confiscation*—to Bill Campbell, one of the minister's political assistants, when Mr Campbell spoke with me very quickly after first reading. I had hoped that my conversation with Mr Campbell, after it was relayed to the government, would result in the government bringing these amendments. There is no indication given of that.

1640

During second reading I made it clear to Mr Mazzilli at the same time I asked you for data about high-speed chases in the Legislature. Mr Mazzilli, you carried the bill for second reading, and fair enough. But I indicated my intention to move these amendments and I made it quite clear to you then that it wouldn't hurt my feelings one tiny bit if the government brought these amendments, that I would have supported them. I don't want to speak for other opposition members, but I suspect that all of the opposition members would support them.

That said and done, it's important that legislation be moved through as quickly as possible but not without adequate consideration. I think it's important that we had this committee hearing today. It isn't going to take up the whole afternoon, but so be it. It was important to discuss whether or not the penalties here went as far as we should be going.

I also want to mention this. The deterrent effect of heavier and heavier penalties is, in my view, not always the primary deterrent. You know that. Most people who do criminal behaviour don't expect to get caught. They wouldn't do it if they expected they were going to get caught. I hope the word will get out there very, very clearly that the ante has gone up. The price of poker has gone up for people taking the police off on high-speed chases.

Although I very much agree with the heavier penalties, one of the unfortunate things about the wish by everybody to expedite this bill is that we haven't talked about the broader issues here. I'm not going to go through the same things I spoke to on second reading, but issues of training—and I think you agree with this, Mr Mazzilli. You made every indication that you agree that the government is not financing sufficient training through the Aylmer police college and perhaps other resources.

I hope there's a point in the very near future where we can work on that technology and give the cops the tools they need to do their job. I very much believe that a Toronto helicopter—you know that. I think the province has to take some responsibility for absorbing the incredible cost. It's a huge cost. Financially it's big bucks, no two ways about it, along with other technology. The spike belt is out there, but you've already heard my concerns about the lack of training that I believe accompanied those spike belts.

Agreeing that a big chunk, and perhaps indeed the biggest chunk of high-speed chases is initiated by drivers of stolen vehicles takes me to this. I appreciate that mandating what is an essential component of a newly manufactured vehicle probably is federal jurisdiction, the federal Department of Transport. But I'm told that, for instance, not the after-market but more so the factory-installed, anti-theft devices—because most of the people, again, stealing cars who are inclined to get into high-speed chases are not the ultra- or hyperprofessional car thieves, the ones who ship them off in containers to other parts of the world for huge profit. They're punks.

My understanding is that the factory-installed, anti-theft devices by and large are reasonably—nobody is going to stop the professional. Locks are for honest people only. That's an old maxim just illustrating the contradiction or the irony. A highly skilled pro is probably going to steal any car, no matter how many anti-theft devices are on it. However, for the kind of stupid, drunk and stoned punks who steal cars from people's driveways, from parking lots, who end up in these high-speed chases, those factory-installed devices I'm told are reasonably effective. In other words, they impede the theft of a vehicle sufficiently well and for a sufficiently long period of time that the stupid kinds of people who take cops off on high-speed chases probably won't be able to steal the car.

You're the parliamentary assistant. I know you're accountable to the minister, but you and I also know you've got your office and your staff and you should be embarking on some of these adventures yourself. You should be taking it upon yourself without even telling the Solicitor General, without even telling your boss that you're doing it. Don't waste time consulting. It'll take you months and months to get it cleared, but just get out there—

**Mr O'Toole:** Just do it.

**Mr Kormos:** Please, and I'd be pleased to join you. I think Mr Bryant would join you as well, to start talking.



Let's find out about these anti-theft devices. Let's get some data. You and I should sit down, and Mr Bryant as well, and look at some of the data on which cars are being stolen. We know the insurance industry issues these reports annually, but are the cars equipped with these anti-theft devices? Is there a correlation between frequency of theft?

Let's sit down and talk about some of that. If the province can't force the auto industry to install them, rather than extra-cost equipment, rather than options, make them an essential part of the car. At least you can lean on the industry. You certainly can lean on them to make them mandatory. You can lean on the insurance industry to give people a break or a discount when they've got them in their cars, which will alleviate the concern people have about paying more for them. Again, whether they're mandatory or optional, they're going to cost, I understand that, but lean on the insurance industry. You may not be friends of the insurance industry, but there are people in your caucus who are, who have contacts. Lean on them to make sure they let their clients know there are discounts, that you get a discount for having a factory-installed or certain level or specification of anti-theft device.

I'm surprised the insurance industry isn't more interested in this whole process, because they're the ones who pay out the money when a car gets all smashed up or burned after being stolen, the torch job. These guys, the insurance industry, in terms of how they keep on bragging about how good they are at evaluating their costs and doing the management of that sort of stuff, just keep charging premiums and when they have to pay out, they pay out.

What I'm saying to you is that we should be looking, all of us, at ways, rather than just bigger penalties and the deterrent effect they have, of really getting down to the nitty-gritty and dealing with things that can reduce the number of occasions when police are called upon to engage in high-speed pursuits.

I know that you keep talking about the threshold before a high-speed chase can happen. That doesn't change the profile, though, of the person who—what are police supposed to do once a person takes off in a reckless manner? I don't want to sit around second-judging the police, because all they know is that a car is going like a bat out of hell away from them, *prima facie* endangering all sorts of people. I'm not going to sit back and tell cops how to do their job. But let's find ways and also listen to the cops. Use your position as parliamentary assistant. Surprise the minister. I'm sure the Solicitor General enjoys a good surprise, as any of us do.

I'm supporting this legislation. Bring it back into the House promptly. I'm confident that it will pass on third reading within the hour if not less. I can't speak for the Liberals, but I'm confident it'll pass within the hour if not less.

**Mr Mazzilli:** If I can just comment on some of the comments. First, as you've heard, Mr Chair, all three parties are certainly supporting this bill. The purpose of today was some further discussion about prevention, I guess, which Mr Kormos has just brought out. Our government has been working in the area of prevention, and police are receiving added training in the deployment of spike belts, but technology has come a long way. Now there are stop sticks, easier units to deploy than once were available—that's sort of an ongoing process, as Mr Kormos knows—three of the four helicopter projects in the province. These are trial periods to see if helicopters are effective in the prevention of high-speed pursuits. So we're exploring that.

One area that is very interesting that he's brought out, and it's an area again away from the bill, is that in order to prevent high-speed chases, what we're certainly out there doing and what we are hearing is through the crime commission on anti-theft devices. I am proud to say that the Ford Motor Co has taken a leadership role in this area. Their 2000 passenger vehicles have flight track and anti-theft devices, across the board. Your S-10 pickup, which was purchased at a unionized dealership, I believe, in St Catharines, may not have that. I don't know.

You're right, it is a federal jurisdiction and we urge the federal government to make it mandatory that these devices be installed, and I think they will. But Ford has taken it upon themselves to do it because of market-driven demand for these units. Hopefully the federal government will jump on board and prevent some high-speed pursuits, through anti-theft devices.

**Mr O'Toole:** With your indulgence, I would like to put on the record that I am certain all the automakers, including General Motors, will be working diligently to address the issues of security and safety in vehicles, and Mr Kormos supports that, I know.

**The Chair:** Shall the long title of the bill carry?

**Mrs Brenda Elliott (Guelph-Wellington):** Recorded vote, please.

### Ayes

DeFaria, Elliot, Kormos, Mazzilli, O'Toole.

**The Chair:** The long title of the bill is carried.

Shall Bill 22 carry? Carried.

Did you want that recorded too?

**Mrs Elliott:** Yes, please.

**Mr Kormos:** No, it's too late now.

**The Chair:** Too late.

Shall Bill 22 be reported to the House? Carried. The bill is to be reported to the House.

I adjourn the proceedings of the committee.

*The committee adjourned at 1652.*





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### STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

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Mr John R. O'Toole (Durham PC)

#### **Also taking part / Autres participants et participantes**

Ms Shelley Martel (Nickel Belt ND)

#### **Clerk / Greffière**

Ms Susan Sourial

#### **Staff / Personnel**

Mr Douglas Beecroft, legislative counsel

Legislative Assembly  
of Ontario

First Session, 37<sup>th</sup> Parliament

Assemblée législative  
de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

**Monday 28 February 2000**

# Journal des débats (Hansard)

**Lundi 28 février 2000**

## Standing committee on justice and social policy

## Subcommittee report

## Christopher's Law (Sex Offender Registry), 1999

## Comité permanent de la justice et des affaires sociales

## Rapport du sous-comité

## Loi Christopher de 1999 sur le registre des délinquants sexuels

Chair: Joseph N. Tascona  
Clerk: Susan Sourial

Président : Joseph N. Tascona  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 28 February 2000

*The committee met at 1003 in room 151.*

## SUBCOMMITTEE REPORT

**The Vice-Chair (Mr Carl DeFaria):** Good morning. I'd like to call the meeting to order. This committee hearing is on Bill 31, An Act, in memory of Christopher Stephenson, to establish and maintain a registry of sex offenders to protect children and communities.

I wish to welcome everyone here this morning. To begin, I'd like to call on a member to move the subcommittee report.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** I'll so move, Mr Chair. The minutes read as follows:

(1) That the committee hold two days of public hearings at Queen's Park subject to the number of people/groups requesting to appear.

(2) That the clerk issue a press release and place an advertisement regarding the hearings on the Ontario parliamentary channel.

(3) That witnesses be allotted 20 minutes.

(4) That witnesses requesting reimbursement for travel be considered on a case-by-case basis.

(5) That the clerk and the research officer compile a list of groups that might be interested in appearing as witnesses. That this list, as well as a list of members of the public/groups that have requested to appear, be faxed to the members of the subcommittee on committee business.

(6) That members of the subcommittee choose from the above lists who they would like to appear as witnesses and inform the clerk of the committee of their decision.

(7) That the committee send a letter of invitation to the Honourable Anne McLellan, Minister of Justice and Attorney General of Canada, and to the Honourable Lawrence MacAulay, Solicitor General of Canada.

(8) That the research officer prepare information on other jurisdictions with similar laws as well as data on parole issues dealing with sexual offences and the nature of tracking at the federal and provincial level, if any.

(9) That the committee meet informally at 9 am on the first day of public hearings for a technical briefing from the appropriate staff of the Ministry of the Solicitor General.

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 28 février 2000

(10) That the parliamentary assistant, the opposition critic and the third party critic each have five minutes for opening statements.

(11) That the committee meet for clause-by-clause consideration of the bill after public hearings.

**The Vice-Chair:** Mr Beaubien moves approval of the subcommittee report. Shall it carry? Carried.

Before proceeding to the opening statements, I'd like to remind the members that any amendments to the bill, I think it has been agreed, should be submitted by 1 pm. Are there any questions about that or is that agreed?

**Mr Peter Kormos (Niagara Centre):** If I may, Chair, that's a recommendation.

**The Vice-Chair:** That was the recommendation of the Chair.

**Mr Kormos:** But during the course of clause-by-clause, of course, any amendment could be made at any time. We're not dealing here with the constraint of time allocation.

**The Vice-Chair:** My understanding is that the amendments should be delivered to the Chair by 1. If there are other amendments, you would need the consent of the committee to extend the deadline.

CHRISTOPHER'S LAW  
(SEX OFFENDER REGISTRY), 1999LOI CHRISTOPHER DE 1999  
SUR LE REGISTRE  
DES DÉLINQUANTS SEXUELS

Consideration of Bill 31, An Act, in memory of Christopher Stephenson, to establish and maintain a registry of sex offenders to protect children and communities / Projet de loi 31, Loi à la mémoire de Christopher Stephenson visant à créer et à tenir un registre des délinquants sexuels en vue de protéger les enfants et les collectivités.

**The Vice-Chair:** Let's proceed now with the opening statements. Each caucus has five minutes. Did the government caucus wish to—all right. We'll start with the official opposition.

**Mr Michael Bryant (St Paul's):** There's a saying in opposition circles that when you support a government bill, you should not speak very long, so I may not take my full five minutes.

We support this bill. The circumstances surrounding the murder of 11-year-old Christopher Stephenson have



been gone over several times and we should continue to go over them. One of the recommendations in the coroner's inquest is that a sex offender registry be set up, and that's happening. We support that. That is a good thing.

With most justice issues, rightly or wrongly, we live in an era where much of the discussion revolves around rights. In other words, there is a debate over the right of someone who has been charged and convicted of an offence to privacy, individual civil liberties, and we'll be hearing about that over the course of the committee hearing today, versus the right of the public to have access to information regarding crimes regarding offenders who will be entering their community.

I like to think of this bill as less about the triumph of the right to public access than about the triumph of responsibilities. There is a responsibility that all of us have as citizens that we by and large endeavour to fulfill. Those who are convicted of a sex-related offence have a responsibility now by law to register in Ontario with the sex offender registry. While we will work out the details of that, and the regulations with respect to how the information is provided and how it is kept are obviously crucial, we don't want to have a circumstance where somebody who has not been convicted of a sex offence winds up on the registry. We want to make sure that if the registry is going to work, the information provided is accurate. But the bill is one that we support.

My only concern is that we are talking about this in February of the year 2000. This bill was mentioned in three throne speeches. This bill should have been passed a long time ago. But, that said, better late than never. We support the bill, and I look forward to hearing from those who have taken the time to come and make submissions today.

1010

**The Vice-Chair:** Mr Kormos.

**Mr Kormos:** Thank you, Chair. I can indicate very specifically at the outset that I support the legislation, not only in my own right but on behalf of my colleagues in the NDP caucus, and tell you, as I've told you in the Legislature during the course, among other things, of second reading of this bill, that I have read the coroner's inquest jury recommendations in the Christopher Stevenson inquest. I have probably read it far too many times, regrettably. Clearly, Bill 31 reflects one of a myriad of recommendations there. I know that the parliamentary assistant understands that, because he has been most receptive in my discussions with him about other recommendations.

I think all the people involved in the development of this bill acknowledge, and it was referred to this morning, that it is not a panacea for the incredible public danger that sexual predators constitute in our communities. It isn't, and we understand that. I think we had better make it very clear that this isn't the be-all and end-all. It's but a small piece of the puzzle.

The bill requires that sex offenders, that class of offenders convicted of the prescribed offences, submit to registration. Clearly that doesn't protect us from the

anonymity, if you will, of a sexual predator who travels into a community and doesn't want to comply, or chooses not to comply, with Bill 31. I accept, though, some of the commentary—it will be made by a submission very early this morning from the Canadian Resource Centre for Victims of Crime—that talks about some modest deterrent impact of having something like Bill 31. I regret that this isn't occurring at the national level, because of the incredible mobility of anybody in our society and in our country.

Inspector Lines from the OPP told us this morning that the current data indicates that approximately 1,500 offenders a year will be required to register; 1,500 convictions a year based on the current statistics—I think the exact number was 1,560. I suppose one way of auditing the effectiveness of Bill 31 will be to track those convictions, if we can, and see whether they register and how those registrations are maintained.

Some of the concern I have is that at the end of the day I'm convinced—and I'm sure others disagree with me—that the most effective part of this is the process of registration, so that when a sex offender moves into a community the police in that community know that she or he is there, and then can do what they do best to protect members of the community against that person. It remains to be seen, by virtue of regulation, the nature of the data that's going to be collected, who is responsible for maintaining that data, although we understand, and I suppose we're going to be told more later, that the OPP will have the lead in terms of responsibility for organizing the database, but whether local police forces can maintain that data in their own right, in an open—I'm not talking about public, but without doing it clandestinely, without doing it in a secretive manner to comply with Bill 31. Our researchers provided us with some of the data regarding prison sentences, parole and some of the comparative jurisdictions.

As I say, this is but one of the recommendations in the Christopher Stevenson report, in the coroner's inquest jury recommendations. I hope this government will carry on in the same spirit of this bill and let us talk in the assembly in a very prompt way about things like treatment programs. Quite frankly, Parliamentary Assistant, I am concerned about the future of the Ontario Correctional Institute which, as you know, has a treatment program for pedophiles, one of the hardest groups of deviants to treat, but which has one of most successful programs certainly in North America, and is acknowledged as such. We have to talk about how effectively we're dealing with sex offenders once they are in prison, so that when they are released the likelihood of the recidivism is reduced as much as possible.

I also note that this will have a cost attached to it, a public cost in terms of tax dollars—there will be approximately 1,500 registrants a year if all the offenders comply. I as a taxpayer am prepared to pay for that, just as I am prepared to pay for effective and adequate policing in our communities.

I appreciate the co-operation of the parliamentary assistant with my modest private member's bill regarding fees for volunteer checks, because this is part and parcel. It was another recommendation of the Christopher Stephenson report.

This is one part of the puzzle. Please, I say to the government, let's assemble the balance of pieces of that puzzle so that we can protect the children and women, the two groups of people who are most frequently the victims of sexual offenders, in this jurisdiction in the manner they deserve and that all of us in a civil, and presumably civilized, society deserve.

**The Vice-Chair:** Mr Mazzilli.

**Mr Frank Mazzilli (London-Fanshawe):** Good morning, Mr Chair, ladies and gentlemen. Just to inform you, Mr and Mrs Stephenson are in the building and will be joining us.

On behalf of the Harris government and the Ministry of the Solicitor General, I'm pleased to make a few comments to this committee in support of our proposed legislation creating a provincial sex offender registry.

The proposed sex offender registry will be known as Christopher's Law, in memory of Christopher Stephenson. This will be a great honour in Christopher's memory. It will be the culmination of 10 years of dedicated effort from his family to help guard against such horrid acts of violence.

Since second reading of this bill, Mr Tsubouchi and I have received an overwhelming amount of support from victims' rights organizations, police services and the public. We've heard from organizations like CAVEAT, a national anti-violence group, from the Ontario Association of Chiefs of Police and from the Ontario Police Association. We've heard from municipal officials in communities like Sarnia, where the local council passed a motion strongly recommending that the province pass a sex offender registry.

Many organizations are also dismayed that Ottawa has totally ignored the need for a national registry. The Harris government is taking action to do the right thing and is acting to protect our citizens. Ontario is leading the way for the rest of the country in creating a tough deterrent for offenders and would-be offenders.

As Minister Tsubouchi and I have said before, the key goal in establishing a provincial sex offender registry is to protect the most vulnerable people in our society. The need to safeguard our children—our sons and daughters—is more than just necessary; it is crucial.

A provincial sex offender registry will provide our police with something they have not had before: a way of keeping track of sex offenders. The registry would be a vital investigative tool, allowing police to monitor sex offenders in our communities. Police already have the authority to disclose the names of offenders in the interest of public safety. Under the proposed legislation, they would be given the authority to arrest those who fail to comply with Christopher's Law.

We need to protect the most vulnerable in our society and safeguard our communities. We need to let victims

and victims' families know that their efforts are not in vain, and provide police with the means to track the whereabouts of high-risk offenders. The safety of our communities is one of our top priorities.

Mr Chairman, we owe it to the Stephensons, to all victims and their families, to all potential victims and to police services in every community in our province to enshrine a law that will serve as a major crime-prevention and crime-fighting strategy. Everyone in Ontario has the right to be safe from crime. We should be able to walk in our neighbourhoods, use public transit, live in our homes and send our children to school free from the fear of criminals.

Christopher's Law will be another step towards making our streets safer for the people of Ontario.

**The Vice-Chair:** We will proceed now with the submissions. I'd like to indicate that each presenter will have 20 minutes. Those 20 minutes also include questions by the members, so if a presenter would welcome questions he or she should try to limit submissions to less than 20 minutes so that questions can be presented to them.

1020

#### CANADIAN RESOURCE CENTRE FOR VICTIMS OF CRIME

**The Vice-Chair:** We'll start with the Canadian Resource Centre for Victims of Crime, Mr Steve Sullivan. Welcome, Mr Sullivan.

**Mr Steve Sullivan:** Thank you, Mr Chair. My name is Steve Sullivan. I'm with the Canadian Resource Centre for Victims of Crime. The resource centre is a national non-profit victims' advocacy or lobby group. We are completely funded by the Canadian Police Association and do not receive any government funds from any level of government. We work with all levels of government to ensure that the voice of victims is heard during debates about justice reform and victims' rights.

At the outset, I will say that we support Bill 31. Before I begin, I'd like to echo some of the comments that have been made around the table that this is one tool in law enforcement's ability to protect the public from sex offenders.

Before I get into the meat of our discussion, I would like to publicly recognize the incredible work of Jim and Anna Stephenson. I have known both Jim and Anna for a number of years now. In the work I do, I get to meet a lot of pretty wonderful people. They are among the most courageous and dedicated people I've ever met, and the people of Ontario owe them some gratitude and I think the people of Canada do as well, because I know they will continue to work to see a national registry of this type.

We also want to thank the government and the opposition parties for all recognizing the importance of this tool as well to law enforcement.

I have provided a brief which gives some background information about the experience the United States has had. As you may know, every state in the US has some



type of registry. I won't go into detail about that. I was recently in Washington to meet with some victims' groups and government agencies, and this is a snapshot of the information I brought back.

The key is that some of the studies from the US show that the registries have enabled law enforcement agencies to solve crimes quicker and identify suspects sooner. It's common sense. I'm sure you'll hear from the police representatives later on today that when there is a crime in the community and the police don't have a suspect, one of the first places they go is a halfway house, or they go to parole officers; they go to prisons to see who has been recently released who has committed that type of crime.

When a young boy was abducted in the States, which eventually led to the Jacob Wetterling Act, enabling the states to pass registry laws, the police at that time said it would have been helpful for them to know which offenders were in their community. So this is an important tool because it does allow police to know who's in their community, what types of offences they've committed, and it will assist them in solving crimes quicker and hopefully preventing more victims.

As I mentioned, we support the bill in its entirety. We would offer a couple of recommendations for this committee's consideration later on. One is, I note the bill did not include the child prostitution offences. A lot of people don't recognize those who seek the services of child prostitutes as child molesters. I would argue that they are, and I would argue that people who seek the services of young prostitutes should be on this registry.

We would also include young offenders on this registry. In saying that, we don't view this registry as punishment. It's not a punishment for offenders. Certainly, the courts in the US have found that registration is not a form of punishment. They have found that it is really no different than any other type of sentence. If people commit crimes with firearms, we can order that they don't own firearms for 10 years or life. If people commit crimes such as impaired driving, we can order that they don't drive for a number of years. If sex offenders are released from prison, we can get a peace bond or a judge can order at sentencing that they can't go near parks. This is just one more tool for control of that type of offender.

There's research that shows that the younger a person is when they commit their first sexual offence, the higher the recidivism rate is later on, or the higher the risk is. So we believe that young offenders should be included in the registry, with the emphasis that the public won't have access to this registry, so there's no concern about public identification.

We also think it's important that if this registry will work, it might not be good enough to simply wait for an offender to come in annually to a police station to verify his address. We think the police should be more proactive in doing that. There are jurisdictions in the US that verify every 90 days, and it varies up to the period of one year. Some kind of regular verification is important.

Part of that is one of the issues we'll throw out for the consideration of this committee, the issue of resources. It may be a question not dealt with at this stage but certainly later on at the implementation stage. The police will need additional resources to deal with this registry if it is to be effective. I spoke with an officer from the Toronto police ROPE squad, which deals with repeat offenders who are in the community. He expressed to me that if it's really going to be effective, the police will need resources to input the information, to verify the information.

Research from the federal government shows that the longer you track a sex offender, the higher the recidivism rate is. I've included in my brief a reference to a 15- to 30-year follow-up study which showed that the recidivism rate was almost 50%. I think it was 42% or 45%. That's an alarming figure.

We regret to say that the federal government still hasn't seen the value in creating a national registry. Their own research shows that it wouldn't be difficult. They could amend the CPIC system to include information about someone's address. Maybe they haven't read the same research from the States that I have, but they have so far denied that. I would ask this committee, this government and the opposition parties to make their views about this bill known to the federal government; I know we will be.

The final thing, again as a practical measure, maybe to be dealt with in the regulations, is creating a bond or a relationship with other agencies to ensure that offenders who are being released from federal or provincial prisons are aware of their duties under this law; also, that the police are aware, as best as possible, of who is coming into the community. Other agencies will be a valuable resource to the police in helping them enforce this piece of legislation.

I will end there and welcome any questions any members may have.

**The Vice-Chair:** We have approximately three minutes per caucus. We'll start with the government caucus. Any questions?

**Mr Mazzilli:** Mr Sullivan, thank you very much for attending today. Have you received any hope for the future from the federal government that it shows any interest in creating a national registry?

**Mr Sullivan:** Unfortunately, to date I have not. When we were preparing our brief for this bill, we wrote to the Solicitor General and received a very similar letter to the one this committee received. We are, though, meeting with his officials next month, and we'll bring the message to them once again. But to date there has been little interest.

**Mr Mazzilli:** Thank you very much. We will continue to let our views be known to the federal government, that the need is there for a national registry.

**The Vice-Chair:** Any further questions from the government caucus? Mr Kormos?

**Mr Kormos:** I read your brief, obviously, because it was the first one here, the only one we had before we

were able to start. I'm concerned too about the matter of resources, because it's voluntary—I say “voluntary compliance.” It's compelled by the statute, but it relies upon the willingness of the offender—why do I point at myself when I speak of offenders?—to surrender himself or herself to a police station to register. Inspector Lines told us earlier this morning that there are approximately 1,560 new convictions per year, but that doesn't imply just 1,560 new registrations, because as people move about they should be and will be expected to register. So you're talking about some compounded number of that.

When you talk about integration—I was hoping, because we had submitted a request for the people who operate CPIC to come here. What is your familiarity with the level of resources available currently in terms of, let's say, CPIC? I've heard police officers complain to me about the outdated nature of it and that it's becoming less and less effective as a tool for police officers. Notwithstanding that they're getting little computer terminals in their cars, all the technology in the world doesn't work—garbage in, garbage out. What's your sense on the level of resources that we have now to assist police in doing the sorts of things that Bill 31 contemplates?

1030

**Mr Sullivan:** I'm not familiar with using CPIC myself, but I've spoken to officers who are, and you're right that there is a lot of frustration in getting information back. It's a slow process, and the technology hasn't really caught up. The technology we have available isn't implemented yet.

Having said that, the budget is being released today, and there have been rumours that CPIC will get a boost as part of the RCMP package, so there's hope there. But certainly the concerns have been raised with us that CPIC is not up to standards.

**Mr Kormos:** What would you argue—and we'll have a chance to talk more about the issue of young offender participation in Bill 31. The bill simply says “offenders convicted of”; it doesn't specifically speak to adult or young offenders. You're obviously speaking to the recent level of awareness about the crisis in young offenders and sexual crimes which have been publicized over the course of the last couple of years. Expand on that as quickly as you can, please.

**Mr Sullivan:** The bill makes reference to offenders, and I'm just trying to find it quickly. Subsection 8(2) says the bill doesn't apply to young offenders. Dr Barbaree is speaking later on this afternoon. He might be able to give you more specific data. But certainly the research I've read indicates that the younger a person is when they commit their first sexual offence, the higher a risk that person will be down the road.

If we're targeting sex offenders, and particularly repeat sex offenders, we want to definitely include everybody. Given that this is not accessible to the public, there's no fear of identification for young offenders.

**Mr Kormos:** Thanks for coming today.

**Mr Bryant:** Thank you very much for coming. Am I right that Ontario was the first province to establish a sex offender registry?

**Mr Sullivan:** It is. BC raised it a couple of years ago with the federal government, but they've made no move, so Ontario is the first.

**Mr Bryant:** Presumably, in the alternative, if the federal government doesn't take the position that there is a responsibility on them to have a national registry, the next-best thing, perhaps the preferable option, is that other provinces establish registries. Am I right that the US experience is that Megan's Law sets out the requirements for state registries and that, state by state, each of them enacts the details? Is that right?

**Mr Sullivan:** Yes. I think the first act which dealt with registries was the Jacob Wetterling Act. Megan's Law dealt with notifications, community notification, public access to registries. The federal government there makes the broad statement that every state should have a registry, and then they work out how it works in their own state.

**Mr Bryant:** I understand. Thank you for coming.

#### MENNONITE CENTRAL COMMITTEE ONTARIO

**The Vice-Chair:** The next presenter will be from the Mennonite Central Committee Ontario, Mr Brian Enns. If you could please state your names for the record, both of you. Welcome to the committee this morning.

**Mr Brian Enns:** My name is Brian Enns.

**Mr Evan Heise:** My name is Evan Heise.

**Mr Enns:** Thank you very much for allowing us to present today. It's appreciated.

In November of 1996, Mennonite Central Committee Ontario began receiving funds from Correctional Services Canada for the Community Reintegration Project, a pilot project meeting the needs of communities for enhanced safety by providing circles of support and accountability for released sex offenders discharged at warrant expiry from federal institutions. We have formed circles of volunteers around released offenders with the involvement of faith communities, police, neighbourhood groups and treatment professionals. Based on our experience in southern Ontario, we support measures that provide for the safety of Ontario's communities.

We are concerned that this registry will duplicate existing mechanisms when funds, time and energy could be better served in treatment for offenders. Large amounts of energy and money, at least \$6 million annually according to the last provincial budget, would be spent on the creation of the proposed registry that would duplicate already existing mechanisms. Restrictions can be placed on sex offenders at the time of sentencing or after their warrant expiry date, and information can be gathered on convicted or suspected sex offenders with these existing mechanisms that have already been put in place since the Christopher Stephenson inquiry.



C-55 is placed on sex offenders at the time of sentencing and allows community supervision for up to 10 years after the completion of the sentence.

Section 161 is similar to C-55.

Sections 810.1 and 810.2: These two measures can be placed on offenders after their release and can require them to report regularly to police officers and provide their addresses and information of any change of address to the police. It can be renewed annually if required.

As well, there is CPIC, which we were just talking about.

MCC Ontario is concerned that the requirements of the registry would place one more obstacle in the way of sex offenders wanting a healthy reintegration into our communities. MCC Ontario believes that some restrictions for released sex offenders may be effective in promoting community safety but cannot understand why extra restrictions are needed when the already existing mechanisms are adequate.

We believe that the proposed registry, in addition to being redundant, will also be ineffective in accomplishing its purpose. Insofar as this legislation relates to the death of Christopher Stephenson, people who know Joseph Fredericks, the man who murdered Christopher Stephenson, believe a registry would not have prevented Christopher's murder. The police knew Fredericks's place of residence without the proposed registry, and today the courts could place an 810 on him, which would require him to report to the police daily.

In the provincial government's December 9, 1999, press release on the registry, the Solicitor General suggested it would help the police in knowing the whereabouts of sex offenders. Placing an 810 on an offender, or even a potential offender, would ensure accurate information with penalties for those who do not follow the 810's provisions. Some of the ex-offenders we work with in circles of support and accountability have provisions that require them to check in with an officer of the sexual assault squad every week and provide notification of changes in residence.

The most effective way to avoid repeating the tragedy of Christopher's death, according to our experience, is through treatment and education for people with mental problems that lead to this kind of crime.

Treatment: We are deeply disturbed that effective treatment centres inside institutions and the community are being forced to close down. Proven ineffective treatment will lead to many more victims like Christopher, regardless of registries, laws and best attempts of our law officers to enforce these laws. The jury recommendations from the inquest into Christopher Stephenson's death emphasize the importance of treatment.

And here we have the recommendations for the Correctional Service of Canada and the National Parole Board, emphasizing the need for treatment in communities and aftercare. While this recommendation is made to federal institutions, it does not detract from how the jury stresses the role of treatment.

Education would be through school programs and with the participation of parents, educating children on how to identify sexual abuse and that it is all right to say no.

The coordination of information between governments would make better use of public resources. MCC Ontario suggests that this committee consider another recommendation from the jury investigating the death of Christopher Stephenson. The recommendation talks about coordination of research on how to manage sex offenders.

What is accomplished if this registry is redundant? If we have CPIC, the 810 and other instruments to provide safety for our communities, why spend our tax money on a redundant and expensive registry? If the government and this committee can establish that all these instruments, used in conjunction, are faulty or lacking, then something must be done. But we only hear about the limits of CPIC. We urge this committee to examine how these instruments already address the concerns of the Solicitor General and Christopher Stephenson's family.

Thank you.

**The Vice-Chair:** Thank you, Mr Enns. We'll start with questions from the Liberal Party.

**Mr Bryant:** Thank you very much for coming. It's puzzling to me—it's your position that this law is retributive; in other words, it adds another punishment on some level to the offender. We just heard a submission that I would agree with that in fact this has nothing to do with retribution and everything to do with prevention. Leaving aside the concerns about redundancy which you've expressed—and I'm not convinced that there is a redundancy; but anyway, leaving those aside—when a sex offender fulfills a responsibility that's set forth in legislation whereby you have to let people know where you are for 10 years after an offence, first, how is that retribution? Second, leaving aside the retribution concerns, would you agree that, as a preventative measure, this is a good law?

1040

**Mr Heise:** I'll speak to that. I don't think we were looking at the retribution aspect of it. Our concern is that there are a number of measures. In our project, we are working with the highest-risk offenders who have been detained to warrant expiry in the federal system. They are coming out with no parole provisions, no supports in the community. I think now, fortunately, in some cases we do have the provisions of the 810 and some others.

But other things we've heard from professionals in the field are that when you're dealing with additional layers of demands on an offender, there is a point to which these are beneficial, and then there's a line you can cross and it starts to cause bitterness and a build-up of resentment and tips the scale to a greater likelihood of reoffending.

So we have some of the fellows we are working with who are complying within 810, have other restrictions on them, other reporting procedures, and when they hear that there's another law, another reporting procedure they're going to have to follow, they start to freak.



Our concern is, is there some way to merge these various reporting things so that it doesn't seem like another layer on another layer on another layer? It makes it easier then to get on to dealing with the real issues that the fellows are grappling with to keep our community safe.

**Mr Kormos:** Good to see you again. Thank you kindly. I find myself in agreement to a large extent with what you say, once again. However, having said that, I've got to tell you—and I appreciate you're working with people released from the federal system, convicted of sex offences. In my community down where I'm from, I get phone calls from neighbourhoods that are aware that somebody who has committed a rape in that community is released now, and they don't have the same sort of—I wouldn't call it benign—accommodating feeling towards them as you do. I hope you understand that. People in my community are frightened when they know that a rapist or a child molester is coming back into the community.

I agree with you about utilization of the existing CPIC and so on, and some of the briefing we got earlier this morning suggested that was well within the scope of possibility. So I think that's valuable input. I don't think there has to be an entirely independent system. I think you have to coordinate the various technological resources. But I'm concerned about the level of treatment people are getting in prisons, because we have the Ontario Correctional Institute in Ontario, which treats pedophiles among other people, and of course the maximum Ontario sentence is only two years, right? It's two years less a day. That means the treatment period is very brief. So people are being released from a provincial facility with a relatively brief period of treatment. Tell us about the treatment that is or isn't taking place at the federal level.

**Mr Heise:** Part of the, if you want to call it an advantage, is just the person being in the system, incarcerated for a longer time, gives them a longer period of time to take advantage of treatment. Treatment is not a six-week or a 10-week event. It has to happen really over a lifetime for many of these people. So it gives a little lengthier time for that to happen. There are some good programs happening in the federal institutions, with statistics coming out now that are showing pretty good track records on them.

Our concern at the provincial level is that there was a fairly effective treatment program at OCI which is in jeopardy, and the greater concern for me is the treatment available after the release of the offender. We have taken on one situation in your riding, Mr Kormos, of a fellow who was only in for 18 months in the provincial system and did access some good treatment. But now where does he have treatment paid for when he's on the street? He is under those section 161 conditions, very, very restrictive conditions in fact. His offences were within the family, and statistics and research show that he is not a danger to the general public, because incest perpetrators tend to stay within the family. But he has these very, very restrictive measures. He basically does not leave his apart-

ment unless two volunteers are with him. But where does he get treatment?

The Hamilton-Wentworth police were able to negotiate with the courts and a psychologist to pay for treatment for some of our fellows in Hamilton. Recently the provincial government has said: "You can't do that any more. We are not going to pay for these people's treatment." So our fellows who go to Hamilton no longer have access to treatment that's paid for when they go to Hamilton. These treatment provisions are really crucial.

If we have sections like 161 and Bill C-55, the child abuse registry that children's aid keeps as well as the CPIC etc, is there some way to simplify those systems, regularize them in a cost-saving way, so that we can do what we need to do: keep track of where people are and free up some funds for treatment?

**The Vice-Chair:** I think Mr Beaubien has a question.

**Mr Beaubien:** First of all, thank you for being here this morning. I agree with you that education and treatment have a very important role in dealing with these people. However, on page 2 of your presentation you say that you "cannot understand why extra restrictions are needed when the already existing mechanisms are adequate."

We had a very high profile case in the Sarnia area this summer, and I strongly suggest to you that probably 99.99% of the population of southwestern Ontario would be flabbergasted by the statement you make in your presentation. How can you qualify this type of statement? I think it's very irresponsible to state that the restrictions in place today are adequate when it's obvious that the opposite exists. How can you qualify that?

**Mr Heise:** I think you are moving into the subject of notification rather than registry. When Mr Willemse was planning to go to the Windsor area, there was a group of inter-agency professionals, from the John Howard Society to the parole board to police as well as others, who were prepared to work with the circle of support and accountability there to make sure he was safely housed and given employment in that community. Then the police in another jurisdiction adjacent to Windsor, where his residence would actually be, decided to go public in the newspaper. This gentleman felt so frightened—really, he was like a frightened rabbit in a corner. I don't want to minimize the offences and the harm he caused. In fact, I talked with him before he was released from prison, and he was taking real responsibility for the harm he had caused, and he said, "I don't ever want to do that kind of thing again."

**Mr Beaubien:** He reoffended shortly thereafter.

**Mr Heise:** He fled to another city, to stay with his aged parents, but could only stay a few days in the old folks' home there, because old folks' homes can't accommodate people of that age. He finally felt at his wits' end. He could go nowhere but to another city where an agency was willing to find housing for him. But by that time he was so emotionally worked up—and we're not talking about normal people. The police knew where he was. They knew he was going to that city, and another agency



knew he was going there as well. Under his conditions, he had to inform them where he was going 72 hours in advance of changing address. These provisions don't provide anything that existing provisions do not provide. That did not prevent his reoffending. The same day he left the Sarnia-Windsor area, he went to the other city and reoffended. I'm only thankful he did not reoffend in the Sarnia-Windsor area.

**The Vice-Chair:** Mr Mazzilli, do you have a question?

**Mr Mazzilli:** Thank you for coming. In your opening statement you essentially said, and correct me if I'm wrong, that a registry is not required, and essentially that the money could be better spent on treatment programs.

What is the success rate of treatment for people who do not want treatment?

**Mr Heise:** The success rate definitely goes up with treatment. There are some recent studies, and I didn't bring them with me, that look at dynamic risk factors. Static risk factors are factors that can't change: your birthdate, your place of origin and all of that. Dynamic risk factors are those that do change. Those show that, aside from treatment, one of the most significant factors in reducing risk is the social group you affiliate with. In our program we put folks around these people who are healthy, who care and who want to help them go in a direction that they do not reoffend. We only deal with fellows who say, "I don't want to reoffend."

**Mr Mazzilli:** But in all fairness, you would be dealing with federal releases. Is it fair to say that not only are they sex offenders but there may be violent components and certainly repeat offenders?

**Mr Heise:** Yes, there are degrees of violence. We have not taken anyone who has killed someone. Those folks stay in. If they're that dangerous, they are committed into the mental health stream and we are not faced with those men.

**Mr Mazzilli:** So how can you object to registering people who have made those types of—

**Mr Heise:** I'm not objecting to registering them. All I'm saying is that there are already three or four registries. Let's collapse that redundancy and make one efficient one.

**The Vice-Chair:** We'll proceed with the next presenters. I'm not sure whether Mr Brian Adkin is here from the Ontario Provincial Police Association.

1050

#### POLICE ASSOCIATION OF ONTARIO

**The Vice-Chair:** We'll proceed with the Police Association of Ontario, Mr Paul Bailey. Good morning and thank you for coming. You have 20 minutes to make your presentation and to take some questions from the committee.

**Mr Paul Bailey:** First of all I'd like to thank the committee for allowing me to be here. My name is Paul Bailey. I'm the administrator of the Police Association of Ontario and represent about 13,000 front-line police

personnel in Ontario. I should also clarify that I do not represent the Ontario Provincial Police Association, the Toronto Police Association or the Niagara Regional Police Association.

By way of background, I joined the Metro Toronto police force in 1973. I worked as a foot-patrol officer in 52 division, which is the downtown core of Toronto. A year later I left Toronto and joined York Regional Police, which is north of Steeles Avenue between Schomberg, Whitchurch-Stouffville, Aurora and up to Georgina township. I remained there until March last year, when I stepped down as a police officer and became the administrator of the PAO.

I was both a front-line police officer and a road supervising sergeant and spent a number of years as a detective investigating serious crime, including sexual assaults against both children and adults. In my capacity as a police officer I have had occasion to investigate and arrest individuals for a variety of sexual crimes. I have seen at first hand the horrific damage that can be inflicted on victims involved in these types of crimes. The effects are tragic, and in some cases life-threatening, because some of the victims never recover. Unfortunately, some even end up taking their own lives due to the misery they go through involving this.

I had the privilege of meeting Jim and Anna Stephenson at the victims' conference a few years ago in Hamilton. I should add that I respectfully applaud them for the courage they have demonstrated over the years to effect changes in law so that other parents wouldn't have to go through the anguish they did when they lost Christopher. I wish I could offer something to ease their pain, but I can't; as a committee, you can.

The Police Association of Ontario not only supports and endorses this most important legislation but also applauds the government for taking the initiative in attempting to address an issue that should have been addressed by the federal government. Let's be perfectly frank: Christopher lost his life in, I believe, 1988, and it has taken 12 years and a 1993 inquest to awaken legislators to introduce this most effective and common-sense bill.

I believe, and I hope you also believe, that since Ontario is the first to introduce this type of legislation, other provinces will follow suit. This legislation should generate a teamwork approach across Canada, and I sincerely mean that. Currently in Ontario the police, like other publicly funded agencies, are restricted in some areas of law enforcement due to budget restraints and the need to keep taxes down. This may not be a popular statement, but it's reality. If that is the case, and I believe it is, then police services should be given more effective tools to get the job done and to ensure public safety is issue number one. With the PAO it has always been issue number one.

One of these tools is Christopher's Law. Currently, if a person is convicted of a sexual offence, as described in the proposed legislation, the police can utilize the following tools to assist them should they become involved in

that investigation. CPIC, as you heard mentioned earlier by other people, is a Canadian system set up to keep track of information for policing.

I should tell you that back in September 1998, along with colleagues at the Canadian Police Association with me, I met the federal finance minister to address concerns about CPIC. At that time he was very upfront and honest when he said he understood finances but he didn't understand CPIC. He was given a very crash course on the importance of this tool to policing. As you may be aware, we asked the government for some \$200 million-plus to enhance the system and get it up to speed. They did participate by bringing in, I believe, about \$115 million late last year to enhance the system.

The other way we investigate is good old-fashioned police work. Officers go out and check with informants, local criminals, etc to ascertain the location of individuals being sought. It's a very time-consuming and labour-intensive issue to police services. Manpower, as you are aware, is probably the most cost-prohibitive issue that police services face. If Christopher's Law is passed, the police will have an effective additional tool in their arsenal to locate and investigate these types of offenders, and I emphasize "locate."

The proposed law is clear. A sex offender registry is created, a database of information that contains the name, date of birth, address, history of the individual and whether or not they are currently serving time or have served time. All this information is very helpful to police in the sense that you have another tool in the arsenal I just mentioned to keep track of the most dangerous people in our society.

The law further provides some effective monitoring of the individual by using the following: Upon release from jail, the offender must register with police within 15 days of a change of address or within 15 days of coming to or leaving Ontario. The offender must provide the police with his name, address, date of birth and other information deemed necessary, and it's important to note that this information must satisfy the police. It's not simply good enough if a man walks to the front counter, gives his name, date of birth and address and walks out. The police are going to be much more observant and diligent in gaining accurate and topical information to keep the system alive and updated.

This registry is safely maintained by the Ontario Provincial Police, and the offender has a right to see his information if he requests it in writing.

The system is established to allow the police to constantly update and correct information. I think that's important. I heard Mr Kormos say earlier, "Garbage in, garbage out." It's very important that the proper and accurate information is installed in this system.

The registry maintains the information anywhere from 10 years to life, depending on the offence committed.

What happens if the offender doesn't comply? There is another very important part of this legislation that says, "If you don't play by the rules, you will be held accountable and charged criminally with failing to comply with

the requirements under the registry." The first time, it's up to \$25,000 or a year in jail, and for more than one offence, up to \$25,000 and two years less a day in jail.

This penalty section is an important part of this legislation because it provides something that we have always supported at the PAO, and that is accountability. Without Christopher's Law there is very limited accountability on the offender other than, "I serve my time and get out of jail." But now the offender serves his time, gets out of jail and is required to account for his whereabouts for potentially the rest of his life—again, accountability.

I guess it would be simple to say, "If you don't want to be monitored for the rest of your life, then don't go out and sexually assault innocent people." Is that too much to ask? We don't think so.

There is no person I have arrested and testified against in court for this type of crime who has said to me that someone made him do it. No one put a gun to their head or a knife to their throat and said, "You go out there and sexually assault a child or a woman," but I can assure you the offender doesn't have any concerns about using a gun or a knife to get what they want.

Another benefit of this legislation I would like to mention is the potential effective use of the tax dollar. Simply put, it will save money in the sense that police resources may be somewhat freed up by the information contained in the sex registry database so that human resources of police services can be more effectively monitored and utilized.

In closing, I am not so naive as to think that when this law is passed the police stations will be flooded, with every sex offender living in Ontario lining up to tell the police where they live and work, nor am I so naive as to think that sex offenders living outside of Ontario will now not move to Ontario because of this legislation, but we believe we must do everything that is humanly possible to protect the most vulnerable people in our society, and that is the victims of crime.

I'd like to thank you for the opportunity to address you today, and I would be pleased to answer any questions you may have.

**The Vice-Chair:** Mr Kormos.

**Mr Kormos:** How long, Chair? Five minutes?

**The Vice-Chair:** Go ahead, ask the question.

1100

**Mr Kormos:** Thank you kindly.

One of the things that has bothered me a little bit is that this focuses on creating a provincial registry of sex offenders. The local police station, the local police service is obligated to collect the information and then, the legislation suggests, submit it on to the provincial registry. It seems to me that the most valuable part of this process is the point at which the offender has to advise the local police that he or she is in their community. I'm concerned that the legislation doesn't provide for a requirement that the local police force maintain a registry in a prescribed form. Granted, there's a whole lot that can be done by regulation, but would you share my view that the regulation, when it prescribes the type of information



that's collected, the structure of the provincial registry, should also provide the form in which local police forces like my Niagara regional police force have to maintain their own registry in a responsible way so that you don't have a police services board that says, "We sent the information on; we've done our job"?

**Mr Bailey:** It's a two-way street. You send the information in and you have access to it. There are people here today who will give you a more detailed explanation, but from my perspective—and I'm only speaking from my perspective—I think the legislation doesn't go far enough. I would like to see them put Jumbotrons on every police station in Ontario so that we could publicize these people, because they are doing such damage to our citizens. This legislation is designed to be just a tool for the police to keep track of these people. We won't know until the system is in use and it's monitored and there's testing done on it how many sex offenders will use it. I can tell you from my experience as a detective investigating these types of offences that the longest part of my job is trying to find them. If we can utilize a tool that can assist us that way, we can save a great deal of resources and apply those resources to other, more topical issues like organized crime, homicide and those kinds of issues.

I'm not sure that I could give your question a fair answer other than to say that the police will have access to that information that is being stored by the OPP. There had to be some central location to maintain it, and the OPP, in my view, is a very highly skilled and professional organization capable of doing that.

Do I have more time?

**The Vice-Chair:** Do you have another question?

**Mr Kormos:** Yes, of course I do.

We all acknowledge that this isn't going to stop the driven, committed sex offender from committing yet another offence, however unfortunate it is. What do you say to the level of supervision that's necessary for people who at one point or another are released from whatever their prison sentence has to be? I don't know if you were here earlier when the Mennonite Central Committee was presenting.

**Mr Bailey:** I was.

**Mr Kormos:** Can you comment on the level of supervision that has to be there for released offenders, notwithstanding their need to register?

**Mr Bailey:** I don't think I can in an effective way. I do have some concerns about what I heard from those individuals. Although I respect them very much, I don't share their loyalty and respect for these types of offenders. Millions of dollars of government and taxpayers' money is committed to helping these individuals, and from my perspective I don't see any commitment from these individuals or the people who represent them to repay that money or to help reduce the cost of those kinds of issues. Maybe I'm too far one way but I have absolutely no empathy for people who go out and brutally sexually assault women and children. This kind of legislation is very important to the police, but it also sends a strong public safety message out to the public that there's

another way we can look after our citizens. I'm not really qualified to deal with issues of parole.

**Mr Brad Clark (Stoney Creek):** As a preamble, I'm sure you're aware of what's been happening in the United States. The Jacob Wetterling Act was enacted in 1994, and that actually required all of the states to create sex registries. In 1996 Megan's Law amended that so that there was actually a community notification process attached. In 1998 they then created a national sex registry.

Bearing that in mind, I wonder if you could comment. There was a letter that we received from the Solicitor General of Canada in which he states that a comprehensive screening approach would be a more effective option to enhance community protection than establishing a new sex offender registry.

**Mr Bailey:** The only comment I can make on that is that I've watched the development of Megan's Law down in the United States and I've watched the development of this law, and it's unfortunate that somebody has to make the ultimate sacrifice to get legislators off their butts, creating good, effective public safety laws.

We're dealing here with a federal issue that has ended up in provincial jurisdiction. I don't know enough about all the United States law to comment, but I believe that the sex offender registry is probably the most important tool dealing with this type of crime to come along for policing in many years. That's my only comment on your question.

**Mr Clark:** The Solicitor General makes the statement that the screening process—which is basically where they do checks on anyone who wants to work with children's groups: Big Brothers, Big Sisters, Girl Guides etc. He's making the statement that that screening process—I guess in 1997, they had 750,000 checks done—is a better system and much more comprehensive than any sex offender registry. Would you agree with him?

**Mr Bailey:** In part. I have been involved in investigations in my past as a police officer when we've uncovered Big Brothers—and I'm not utilizing Big Brothers, but people in authority who have abused that authority. I'm sorry I mentioned Big Brothers; that's not what I meant. They're a tremendous organization.

I guess both of them are necessary. The checks that we get at police stations and police services across Ontario to check these people are becoming more and more a topical issue. You've read about these scandals happening out in Belleville and those areas involving people. We've heard that the religious groups have been under close scrutiny because of their conduct in the past. My own feeling is that I don't care who the sex offender is, whether he's a criminal, a low-life, a priest; if he has committed that offence, he should be on the registry and the police should monitor him.

**Mr Mazzilli:** Mr Bailey, I just want to thank you for sharing your personal experiences as well, on behalf of the Police Association of Ontario. It seems that members of your association and other police associations are working everyday with resources from the grassroots

level. Essentially, the majority of your time is spent pushing governments to do the right thing on behalf of victims' groups, and the financial resources there come from the police officers of the province. I just want to thank you for representing the victims' groups.

**Mr Bryant:** The committee has had a briefing on this, but perhaps you could give us an example, using your own experience from a front-line perspective, and explain exactly how this registry is going to benefit the officer in terms of preventing a crime or investigating a crime.

**Mr Bailey:** It's more in the investigative area. I can recall investigating a sexual assault, a rape, years ago where we didn't have very many suspects. We did a lot of leg work, and we found out who the individual we suspected was. I would say, after that, 80% of our time was going around knocking on doors, seeing our informants, speaking to known criminals and trying to find this individual. Had this individual been on the registry, it would have saved literally hundreds of man-hours, money and time that we could have spent on other investigations.

We talked earlier about CPIC. It is starting to be enhanced, and we do appreciate the federal government's influx of money there, but we always seem to be chasing the tail. We never, ever get ahead of the game. It would be refreshing if laws were passed to allow us to stop playing catch-up all the time. That's how the registry could help, Mr Bryant.

**Mr Bryant:** Last question. You said that the law didn't go far enough in terms of other investigative and preventive measures. What else might this committee consider doing, perhaps by way of regulation, for the future so that we can get ahead?

**Mr Bailey:** I would like to see their pictures widely distributed. I know it's a very touchy issue in the privacy field and we're invading people's rights, but, especially those people who are repeat offenders, I would like to see their pictures made public. The police have the right now to do that, but I would like to see it made mandatory for the police to put these pictures up, whether it be published in local newspapers or whatever. I recognize the need for rehabilitation is there, but the need for public safety should outweigh that in all cases.

**Mr Bryant:** You weren't here before when I said this. I just don't see that this law is about a clash of rights. I really see it as a sex offender fulfilling his or her responsibility, and that's what this is about. Thank you for coming.

**Mr Bailey:** Accountability.

**Mr Bryant:** Absolutely.

1110

#### ONTARIO PROVINCIAL POLICE ASSOCIATION

**The Vice-Chair:** The next presenter will be from the Ontario Provincial Police Association, Mr Brian Adkin. Welcome.

**Mr Brian Adkin:** I also have Mr Walter Tomasik, who is our vice-president, with us as well, in case the questions get difficult. He'll provide us with some ready information.

Thank you for the opportunity to be here and speak to the committee. It's nice to see you all again and especially nice to be able to speak on such an important issue both to the public and to our police officers and members of the OPP Association.

My name is Brian Adkin, and I'm the president of the OPP Association. I'm a detective staff sergeant with the OPP. Our vice-president, Walter Tomasik, is with me as well today, and Walter is a sergeant with the OPP. We represent 5,000 sworn officers who are members of the OPP across Ontario, and we police over 400 communities in Ontario, providing front-line service delivery and specialized services to many of the police forces across Ontario. Our members and their families not only police these communities, but we also live in those communities. Our members reside throughout Ontario from the most southerly communities to the most northerly communities.

We are here today to speak on behalf of Christopher's Law. It is legislation that will assist the front-line police officers and make our communities safer. The proposed law will allow police officers to be aware of convicted sex offenders who live in their area. While some may say this is a problem associated with large municipalities, we see this law as being very important to the many communities which we police.

To investigate these types of offences, we need every type of assistance we can get, and it's very refreshing for us as a police provincial force and our 5,000 members to see a government that's committed to bringing this type of legislation in, and we appreciate that a great deal.

The two most important aspects are the establishment of the registry and the requirement to register. This will allow police services and the OPP to be aware of who is living in their communities. It will provide important information for the police service or force during investigations and has the potential to save lives.

The offences identified are very serious offences dealing with sexual assault which warrant a heightened awareness by law enforcement agencies and a further need for public safety. While some will argue that the act is draconian or very intrusive, we feel that the public interest and the concern for the safety of our families is the most important issue. As parents or friends, we see our youth develop and become part of our future. The senseless taking of lives or being victimized by sexual predators requires increased protection for our most vulnerable people.

As I look around this committee, I see many of you who have had very serious occurrences of this nature in your respective areas. I ask you all to think, when you're dealing with this in the clause-by-clause section, of how many times you have gone to a shopping mall or how many times you've been at a large public gathering, perhaps with your young children, and looked aside and



just wondered when they're out of sight for a minute what happens and what has happened.

I go back to an occurrence shortly after the Stephenson matter where there was actually a story that had talked about a young girl being abducted in a shopping mall, and it later turned out to be fraudulent, or false actually. But I just want you to think about that, and I want you to think about the impact that has on public safety. It's very important, not only to ourselves as professional law enforcement officers, but also to the public who are out there. The right to attend a large shopping mall or a large commercial area is very fundamental to public safety and also very fundamental to the commerce we have in this country.

As we make this presentation, there is a very intense investigation into a serial rapist in the Guelph and Kitchener area, where MPP Elliott is from. The people in Guelph and Kitchener are very concerned about their safety. These incidents involve home invasions and sexual assaults. I go so far as to say to all of you that there is nothing more frightening for anyone than to wake up in the middle of the night and find a strange person standing in their house, albeit even more frightening for a woman to awaken in her house and find someone standing in the house there dressed or undressed and ready to attack her. It's a terrible thing, it's a crime that's becoming more prevalent and, especially in Guelph and Kitchener, where I live, it's one that residents are afraid of. These incidents involve home invasions and sexual assaults, and, as I said, these incidents are very frightening and every possible thing must be done to prevent and solve these incidents.

We would also ask that the Solicitor General and your committee review the inclusion of young offenders in this act. A lot of this is now prohibited. It is an area where change should be sought to ensure that the public is protected. We have a problem out there with youth violence and we have a problem with youth crime. For people to say, "Well, we're just not going to pay attention to it," or, "We're not going to address it," is hiding our heads in the sand. We can no longer do that. There have been presentations on the new youth violence act to the federal committee which is studying that as well right now, and it's our opinion that it does not recognize the problem with youth crime and youth violence. We ask you as a committee to study this act that you've brought forward and also to make some recommendations to the federal government and to deal with your colleagues on a provincial basis to see if we can get some type of effective tool for us to deal with youth crime.

The sex offender registry should be implemented on a national basis, and it is most unfortunate that the federal government has not identified this as a priority. While in Ontario, if this bill should pass, we will have a very effective tool to fight the crime and to deal with sexual predators, it will not be in effect in Manitoba or Quebec or the rest of Canada. This is a very important issue for us as police officers nation-wide.

We urge you to implement Christopher's Law in its entirety and as quickly as possible. It will result in our members being better able to serve the public. Christopher Stephenson didn't have the benefit of this proposed law. It is important that we learn from his tragedy and prevent similar events from occurring in the future. Christopher's Law will make our communities safer. Thank you.

**The Vice-Chair:** Thank you, Mr Adkin. We'll start with the government caucus.

**Mrs Brenda Elliott (Guelph-Wellington):** Thank you very much, gentlemen, for coming this morning. I very much appreciate your input on this particular law.

You mentioned that we have a situation in Guelph that's certainly throwing a chill into the hearts of most of our residents. I can attest to that and was shocked to see that just a couple of blocks away from my house the investigation is heating up, so to speak.

I would like to look to the sentence where you indicate, "The sex offender registry should be implemented on a national basis." I have a letter here from the Minister of Justice, Anne McLellan, and I'm going to read a quote. I'd like your comment on what she has to say.

The last paragraph says, "It is well within provincial jurisdiction to create sex offender registries and"—this is the part that troubles me—"I believe that this is the proper level of government to implement registries, given the ability of provinces and municipalities to adapt registry operations to local circumstances."

We've heard this morning a fair amount of conversation about CPIC, which I understand is a registry of criminal convictions and really has very little to do with where a person is currently residing. I find it puzzling that a national minister would say it's up to the individual provinces to make decisions of this nature and, I agree with you, of this importance because it's dealing with such offensive acts against children when our society is so mobile. Do you have any thoughts on that?

**Mr Adkin:** We do. Actually, I just want to add that one of the famous things now has become the word NIMBY, which means "not in my backyard." I live in Guelph, as MPP Elliott knows, and when I read the paper this weekend and saw that, I was very shocked as well. I think of some of the things that have occurred in Mr Kormos's area and Mr Bryant's area as well, and I think it's very important for us to do all the things we possibly can.

In relation to the minister's position on that, our opinion is that that's just the minister deflecting something that should be done at the federal level. One of the reasons we have such an excellent criminal justice system in Canada is because the federal government makes the law and the provincial government administers the law. So if it's an offence in Ontario, it's an offence in Quebec, it's an offence in British Columbia and it's an offence in the Northwest Territories. That's very important, and that's why this type of thing should be brought in Canada-wide. As I said earlier, we applaud your government bringing this in. The problem is that it should be brought in liter-

ally from ocean to ocean, on a Dominion-wide basis. It's very important for police officers. It's the federal government not living up to their obligation and responsibilities to the people of Canada. They should be bringing it in nation-wide and it should be part of the Criminal Code.

**Mr Bryant:** Thank you for coming. As you probably know, you're speaking to the converted all around the table.

**Mr Adkin:** I sensed that, Mr Bryant.

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**Mr Bryant:** The official opposition supports this bill, but we've been talking about jurisdiction for a bit. Let's just be clear for a moment. If in fact this is a federal matter, then we've got a problem, because that means this bill won't withstand judicial scrutiny. It means it's a federal matter and only the federal government can legislate in this area, and that means this bill will be struck down.

I sincerely hope that's not the case. I think the province has a role to play in criminal justice, and here's a way in which they can do so by bringing forth this law. I think other provincial governments ought to do so, and if the federal government sees an opportunity to pass something similar to the American Megan's Law which sets a standard for provinces' sex offender registries, that would be a very good thing. But you're not suggesting, just so we're clear, that this law is unconstitutional?

**Mr Adkin:** No, I'm not, Mr Bryant, not at all. We were talking about responsibilities, and we were obviously dealing with MPP Elliott's question from the Minister of Justice as well.

**Mr Bryant:** Along those lines, in fulfilling those responsibilities, could you talk for a minute about the importance of including young offenders in this registry? We're missing a part of the puzzle here, aren't we?

**Mr Adkin:** We are, definitely. One of the problems we have is the way times have changed and, in essence, youth has matured. If anything, the age of responsibility should be going down, and it's a problem when young offenders are not covered. We've been down, actually, to meet the minister and we're appearing before the committee on the new Young Offenders Act on Thursday night to talk about this very thing. This is an area that should be covered off by this bill and should be dealing with youth. Youth, like anybody else in society now, is far more mobile. There are problems which can occur in Toronto; there are problems which can occur in Wasaga Beach or Kenora or Pickle Lake. It's all over the province, and it's an area that should be identified in this.

**Mr Bryant:** Thank you.

**Mr Kormos:** You're not the only people today to raise issues about the young offender coverage. Again, just to flesh it out, you're not just talking about 12-year-olds. You're talking about 16- and 17-year-olds who have, the reality of it is, posed real dangers to other people. I tabled an amendment to that regard—I should let the government know that—to include young offenders in this bill. I'd be interested in seeing how they respond.

I'm also concerned about the fact that this creates a new regime wherein, if one has been convicted and has completed one's sentence for even the most horrendous sexual crime, one is not required to register. We heard some data earlier today that we have approximately 1,560 sexual offence convictions, sexual offences as defined here, per year in Ontario. I don't know how far that goes back historically, but let's say for the last 10 years one would assume it's reasonably the same, unfortunately. That would mean 15,000 sexual offenders conceivably convicted, Mr Mazzilli, over the course of the last 10 years, whose sentences have been completed—no more probation, finished their custodial sentence—who would be exempt from the bill.

I think there are practical ways of giving these offenders some notice that if they're not pardoned by such and such a date, they are expected to comply as well. If we're going to meet the intent and spirit of the bill, if we're going to be able to track predators, sexual predators out there, let's track sexual predators. Do you agree that those people should not be exempt from the coverage of Bill 31?

**Mr Adkin:** I think, Mr Kormos, it's the best initiative they give us, the best tools to deal with that. Some of your statement there was obviously a statement from your regard—

**Mr Kormos:** Sure it was.

**Mr Adkin:** —but it's important to give us the best tools that we can get to investigate these types of offences.

As I said, I go back, and I've been in this role as a parent myself, when I'm standing in a mall and I think about this and all of a sudden my daughter or my son is gone out of sight for a brief time, even seconds. You begin to think of all these things. Maybe people like yourself and ourselves are exposed to it more often, but it's frightening. It's scary; and anything we can get as the best that we need for these types of investigations.

**Mr Kormos:** The fear of this sort of crime has become an oppressive preoccupation of people of my community, to the point where it impacts their lives on a daily basis. People are standing at the street corner with their kids now waiting for the school bus in my neighbourhood, which is a dense urban neighbourhood. It's something that was unthinkable, Lord knows how long ago, when we were kids, at least. It has become a fearful preoccupation, and not out of mythology but out of the realities.

**Mr Adkin:** I think what it has become, Mr Kormos, is reality. It's not a preoccupation any more, it's a preoccupation with reality, and that's what people think now.

We have probably one of the toughest roles in policing because of our role in policing summer detachments. In places like Wasaga Beach and Grand Bend and Sauble we have a huge influx of people come in and we don't know who those people are. We're forced to deal with them many times on spontaneous issues. This type of thing will help us. That's the kind of thing we see occurring all the time with people, that people are concerned.



As you said, and I know you're a little older than I am, when we were back, we never had to worry about that.

**Mr Kormos:** Thank goodness for CPIC, right?

**Mr Adkin:** Yes, that's right.

**The Vice-Chair:** Thank you very much.

**Mr Adkin:** Thank you. It's appreciated. Thanks for the opportunity here.

#### CENTRE FOR ADDICTION AND MENTAL HEALTH

**The Vice-Chair:** The next presenter will be from the Centre for Addiction and Mental Health. Dr Howard Barbaree, welcome to the committee.

**Dr Howard Barbaree:** Thank you very much for the opportunity to speak to you this morning. I have passed around a letter that summarizes our submission. I'm the clinical director of the law and mental health program at the Centre for Addiction and Mental Health and the head of the same program in the department of psychiatry at the University of Toronto. I am here on behalf of those programs to present our position on this proposed legislation.

In our program we provide assessment, treatment and case management services to sex offenders as they're being released into their community, especially in the greater Toronto area. At the former Clarke Institute of Psychiatry site of the centre, our sex behaviours clinic treats about 50 sex offenders each year and assesses a further 300 offenders each year. The vast majority of these offenders are on probation or parole and are being released from custody into the community. At the Queen Street site of the centre, we care for about 170 mentally disordered offenders who are under the jurisdiction of the Ontario Review Board after having been found unfit to stand trial or not criminally responsible on account of their mental disorder. About 10% of those 170 individuals at any one time are sex offenders. We work closely with both federal and provincial correctional authorities and the police to ensure a safe reintegration of these offenders into the community.

As you'll see from my letter, we're in strong general agreement with the proposed bill. We feel that a sex offender registry can be an important component of a comprehensive approach to the prevention of sexual assault. Other important components include both institutional and community treatment for the sex offender, effective case management by parole and probation officers, state-of-the-art risk assessment and informed and effective policing, among other components. We see the registry as an important part of this comprehensive approach to the prevention of sexual assault.

As you'll see from my letter, there are a number of recommendations that we submit respectfully that may hopefully improve the way the legislation might work. The first has to do with clause 7(2)(b) in the legislation. I take it from reading the bill that it's the intent that every sex offender who is being released into the community from custody will be included under the terms of this

legislation and required to report to the police and give information about their circumstances, their address and other information. With respect to individuals who have been found to be not criminally responsible, the bill requires them to report within 15 days after he or she receives an absolute or a conditional discharge from the Ontario Review Board order.

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It may seem contradictory but, according to the terms of Ontario Review Board orders, some patients who are ordered to be detained within the hospital facility are given at the same time privileges which allow them access to the community. This access can be short passes, a few hours to a few days, but also includes the provision that the offender is allowed to live in accommodation approved by the centre in the community. There's a group of offenders here who are not captured by the wording as it's laid out in clause 7(2)(b), and our recommendation would be that the wording be changed to include offenders who are under the jurisdiction of the ORB who are detained in hospital but who have community access of one kind or another.

Item 1: As it stands now, we inform the police when those offenders are released to the community and have community access, but having those individuals on the registry would be of assistance as well.

Item 2: The scientific literature over the past 10 to 15 years has made great strides in the development of our capacity to assess the risk that offenders pose. Sex offenders are a very heterogeneous group. They include individuals who will never commit a sexual offence again and they include individuals whose likelihood is almost certainty that they will commit an offence again. That information is often available in charts and files in the correctional services as these individuals are being released into the community, and we are recommending that that information be included in the sex offender registry.

One of the secrets to the effective use of a registry like this is that the resources should be devoted to individuals who are at highest risk of committing a sexual offence again. The numbers of individuals on this registry are going to be large, and the police will need some assistance in deciding which among those individuals require the most scrutiny and monitoring.

We recommend in this legislation, under clause 14(g), that there be provision for the information contained in the registry to be added to as time goes on and also provision for co-operation between levels of government to add information that other levels of government may have. For example, federal corrections may be able to provide information about risk assessments to this registry.

Our final recommendation is in the interests of making this registry operate most effectively. We feel that the registry should be maintained by the behavioural sciences section of the Ontario Provincial Police. The OPP already keeps important information like this, including the ViCLAS database. Having those two databases operate

together, it seems, would provide for a more efficient and effective operation of the registry.

Thanks again for the opportunity to make this presentation to you today. If there is any further information that you require about any of the three recommendations we're making, we'll be happy to respond to questions now or provide information to you later.

**The Vice-Chair:** Thank you, Dr Barbaree. The Liberal caucus.

**Mr Bryant:** Thank you very much for coming. I tend to agree with everything you've said. So my first question is, have you been consulted on this bill previous to this opportunity here today?

**Dr Barbaree:** Not me personally. We have a member of our program, Dr Peter Collins, who works closely with the Ontario Provincial Police. He and a colleague in our program, Dr Choy, have consulted with the OPP about the development of the registration.

**Mr Bryant:** Just so I'm clear, while we're on the subject of the OPP, with respect to your third recommendation, of course the behavioural sciences section of the OPP would have access to the registry as it now stands, but they would not be managing the database. You're suggesting that they be co-managers, is that right?

**Dr Barbaree:** Yes. The bill doesn't make clear how this registry is going to be managed. Critical to the effective operation of this registry is the time it takes for information to be added to it and the ease with which police organizations can have access to that information. With modern technology, that should all be instantaneous and fairly rapid. But who has carriage of it will determine in part how effective it is as a policing aid.

**Mr Bryant:** My other question is with respect to your first recommendation, that those found not criminally responsible be included in the registry. Just explain to the committee why that isn't captured. Clause 3(1)(b) refers to those found not criminally responsible for the offence having to register. But obviously you're talking about a different category of people.

**Dr Barbaree:** Under the Ontario Review Board orders, the first part of the order puts offenders in one of three different categories: (1) They're to be detained in a hospital; (2) they're to be given a conditional discharge, so they're discharged to the community under conditions; or (3) they are discharged unconditionally and essentially set free without condition.

This bill names the latter two categories, the absolute and conditional discharges; it doesn't say anything about individuals who are detained in hospital. I imagine the reason is that the assumption would be that people who are detained in hospital are detained in hospital. It's important for you to know that a large number of individuals who are detained in hospital have fairly frequent contact with the community and in fact some of them, a minority, are actually living in the community.

The reason this order is like this is because when, for example, an individual has a history of non-compliance with medication or treatment, they are allowed to live in the community but the ability of the hospital to bring

them back into custody is felt to be an important element to their management by the board. In this circumstance the hospital can bring them back into custody without resorting to any legal process at that point. We simply phone the police and they are picked up. That group, the people who are detained in hospital, is not included in the bill.

**The Vice-Chair:** Thank you, Mr Bryant. Mr Kormos.

**Mr Kormos:** This has been a matter for a little confusion to some of us. I'm sure my colleagues over there have it down pat, but Mr Bryant and I both had concerns about this section. We talked about it this morning during the briefing.

You have people at the Lieutenant Governor's pleasure—is that the terminology?

**Dr Barbaree:** That's the old legislation. Now they're under the jurisdiction of the Ontario Review Board.

**Mr Kormos:** I'm obviously older than I look.

These people are held in places like—

**Dr Barbaree:** The old Queen Street Mental Health Centre.

**Mr Kormos:** They're held there for a number of years and then, at some point, they're out in the community, still under the jurisdiction of the Ontario Review Board—Mr Mazzilli wants to talk to you after I'm finished. You're saying that your impression is that this doesn't cover those people.

**Dr Barbaree:** My reading of the bill names the two categories, conditional and unconditional discharges. It doesn't name individuals who are detained in hospital.

**Mr Kormos:** I'm going to simply leave it at this. I'm looking forward to Mr Mazzilli's comments to you, but I invite the government to draft the amendment in that regard, if indeed there is a deficiency that has to be corrected. I have been here drafting my own in other respects—unless you want me to draft that one too, Mr Mazzilli.

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**The Vice-Chair:** Mr Mazzilli.

**Mr Mazzilli:** Doctor, this is certainly an area we need clarification on. Would I be correct in saying that those cases which fall under the Ontario Review Board, because of lack of insight into their illness, are able to go through the criminal justice system and therefore are directed through the Ministry of Health?

**Dr Barbaree:** That's correct. At the time of their trial, if they are found unfit to stand trial, they are simply transferred to the jurisdiction of the ORB and sent to a mental health facility. If they are found not criminally responsible, then they are also sent to a mental health facility.

**Mr Mazzilli:** Therefore, once the Ministry of Health takes responsibility for these people—in your case, you said there are about 170 people at the Clarke Institute?

**Dr Barbaree:** We have 170.

**Mr Mazzilli:** And 10% of them would be sex offenders.

**Dr Barbaree:** That's correct.



**Mr Mazzilli:** So approximately 17 of the 170. Of these 170, the Ministry of Health essentially allows some people to have two-hour passes or five-hour passes, whatever the psychiatrist deems reasonable. Would that be correct?

**Dr Barbaree:** Yes. The process is that we make recommendations to the board, at what is usually an annual hearing, and the board will then change the order to allow for community access. The access can be all the way from one- or two-hour passes into the community to moving into accommodation that's approved by the hospital.

**Mr Mazzilli:** But although these people have a two-hour pass, they are not able to look after themselves or have been found not criminally responsible because of their illness. So how could a system force a person to register who has been found not to have enough insight into their illness to know they committed a crime? Would the psychiatric institution have to make their registration?

**Dr Barbaree:** Yes, it may be that the way to accomplish this would be to require that the hospital that has responsibility for that patient take responsibility for ensuring this information is on the registry. By the time these individuals are moving into the community, or even for extended passes, they are well enough to take some part of the responsibility to report to the police.

**Mr Mazzilli:** Thank you very much for your answers.

**The Vice-Chair:** Thank you very much, Doctor.

HAMILTON-WENTWORTH  
REGIONAL POLICE SERVICE  
ONTARIO ASSOCIATION OF  
CHIEFS OF POLICE

**The Vice-Chair:** The next presenters will be the Hamilton-Wentworth Regional Police Service, Chief Ken Robertson. Welcome, Chief.

**Mr Ken Robertson:** Good morning. I am appearing in front of the standing committee as chief of police for Hamilton-Wentworth Regional Police, but in addition as the president of the Ontario Association of Chiefs of Police.

I want to start by acknowledging the presence of my MPP from Hamilton, Brad Clark. It's good to see you here and to see you taking an interest in such an important piece of legislation on behalf of our citizens here in Ontario.

All members of the police community across Ontario support and commend the government, in particular Minister Tsubouchi, for taking this initiative to bring in improved legislation that will make our communities safer across this great province.

This is not just about sex offenders. We believe this is about victimization. Our society has not been effective in understanding and reducing victimization in this province. The bottom line really is that many people just don't understand that when a child or a vulnerable person is traumatized by a sexual predator, that nightmare lasts a

lifetime. In effect, many of these victims are sentenced to a life of trauma. Their sentence is a life sentence.

In many cases, police investigations conclude with an arrest. The suspect is brought before the courts and is sentenced. In the case of some offences, they may get a six-year term that in fact is reduced to two because of our parole system. In some high-profile cases, they may see a 10-year term, and citizens and society are relieved, thinking they are finally free of these monsters. But reality can actually see these individuals back on the streets in our communities in three to six years. Most importantly, everyone must understand that they are eventually back in our communities. They don't get a life sentence, and if the problem is not resolved they are out looking for another victim. Then, of course, the cycle continues.

The sex offender registry, we believe, has the potential to start the process going and to break this cycle. If it saves just one victim from a life filled with trauma, we feel it is very worthwhile.

I would also like the committee and the legislators to consider an additional piece of legislation as part of this that would bridge the gap that exists between the time these individuals are released on parole or probation and the time they must register at the end of their sentence. Contrary to the belief of some, the proposed legislation will not apply until the offender completes their sentence. This means, as an example, that dangerous offenders who could be sentenced to six years but are released after three years may be out in our communities without a requirement to register until they complete their sentence.

I've had discussions with some of the ministry staff, and they, like I, are concerned about the lack of federal involvement and federal support in this initiative. I think the people of Canada and the people of this province should be speaking out loud and hard about this gap in the federal initiative.

We're leading the way here in Ontario, wanting to increase public safety, but we're struggling with this gap in legislation. We may be able to, in the short term, develop a protocol that would empower corrections, parole and probation officials to require subjects to register with the sex offender registry as a condition of their release. I acknowledge the fact that there are some constitutional issues associated with this, and I understand why the government is showing leadership in proceeding regardless of this gap that may exist. I think a protocol could be developed with federal services—in particular, corrections services, probation and parole—that could cover this gap.

We currently use as an example where we have serious drug offenders who are released from a federal institution with conditions of release on their parole saying that they will not be involved in drug use. Of course, they are subjected to periodic drug testing. As part of their conditions of release, if they are found to be involved in the use of drugs, their parole is revoked. In a similar way, I believe it would not be unreasonable to develop protocols that would say that these offenders would be re-

quired as a term of their release to file their names with the registry and to comply with the conditions of the registry.

So I'm encouraged by the provincial initiative and I would encourage you to pursue the issue of developing a protocol. We will be speaking out on a federal perspective also to bring in federal legislation that will help cover this gap.

The next thing I would like to talk about is funding for the cost implications for police organizations, particularly in large communities across the province. As many may or may not know, most sex offenders migrate to large cities on their release even though they may not have committed their initial offences there. This legislation will create a new workload that could have an impact on the front-line services to our citizens. I believe the government should consider cost implications for administering this legislation and, if required, have some additional funding. This issue can also be compounded by the costs associated with additional technology to implement the registry.

I recently appeared before Finance Minister Eves as part of his pre-budget consultation and advised him of our need to develop a province-wide computer network for policing here in Ontario. The government is moving toward that vision of computer databanks across Ontario being connected through one computer network across this province so that we would be able to access data on individual suspects across all computer databases. I believe the province is moving in this direction, and this initiative could be an enhancement of the sex offender registry.

I commend the government for this initiative. I believe it represents a step in the right direction, and I only hope the federal government will learn from the example that's being established here in Ontario.

Those are my comments, and I'm prepared to answer questions.

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**Mr Kormos:** Thank you. I don't know if you were here when the Mennonite Central Committee made their submission earlier. One of their issues was the existing technology that's out there—CPIC among other things—and the impression they had, and hopefully I don't misstate their case, that this was going to be an isolated, stand-alone sort of registry. Are you talking about the need to have a broad-based, integrated information database?

**Mr Robertson:** We believe in Ontario, and we think it should exist across Ontario, that in addition to the CPIC links that we currently have, there is a need to link the databases of police agencies across Ontario. There are many examples where there may be information in the community of Cornwall, for example, a database that may not be a CPIC-type entry, that would be a valuable investigative tool to an investigator who is confronted with an individual, as an example, in Windsor. The current CPIC system does not allow that interface, and we need to have that interface.

**Mr Kormos:** We were told earlier that we've got some 1,560 sexual offence convictions per year, based on the definition here in this bill. Shouldn't all these be automatically registered upon conviction? That way they can be tracked. If the convictions aren't registered in a way that the sexual offender registry can have a handle on them, how will we ever know how many of those same convicted people are registered? Granted, some of them may have moved out of the province. You understand what I'm saying? But how will we ever be able to audit the effectiveness of it if those convictions aren't automatically registered with the sentences? The computer could tell you what the time frame is for when those people should be starting to register.

**Mr Robertson:** If I could comment, the vision that the police community has is something that's very much like our current ViCLAS system, the violent crime offender system, and we all feed into the system. That is, outstanding cases and cases that are ongoing investigations are fed into a computer. So if we use a violent criminal/sexual predator type case that's going unsolved, we have half of the puzzle because we're able to tie those unsolved cases in together.

The sex offender registry is the second key to that puzzle in that we'll be able to have outstanding offences on one page and we'll be able to match those up with who are the sex offenders living in the area or working in the area where those sex offences are occurring. As it currently stands today, we are not able to match the two. The sex offender registry will provide us that technology and tool to do that match.

We know where the offences are occurring from the ViCLAS and we know where the problems are occurring as a result of what's come into place through the follow-up to the Bernardo case and the ViCLAS implementation. This is now the next phase. That's giving us an inventory of who is out there and, when they move, letting us know that they are moving so that we then can see how this matches up.

**Mr Kormos:** What are the set-ups or the relationships or protocols for accessing the American databases similar to the proposed sex offender registry? How do you get access to that currently, if at all?

**Mr Robertson:** It would have to be done through our treaty and through the RCMP in most cases, if it was to be done in an official capacity. We have informal ways of accessing that, and obviously, if it's needed for court, there have to be court orders and it has to be done through diplomatic channels.

**Mr Clark:** Good morning, Chief. I'm not sure if you're aware of it, but we received a letter from the Solicitor General of Canada in response to our invitation to him to appear before this committee. In the letter he states that "a comprehensive screening approach would be a more effective option to enhance community protection than establishing a new sex offender registry." He's referring to the national screening program that they have in place where charitable groups can have appli-



cants who are wanting to work with children screened by the police department.

Do you share his viewpoint that that screening process is better or more appropriate than a national sex registry?

**Mr Robertson:** I don't share that. In fact, I think it's a rather simplistic approach to the problem. Obviously a volunteer screening process has some benefit in that it is a deterrent to predators to become involved in volunteer organizations, because they know that if they register in a volunteer organization that does screening, they are going to be exposed. But there is a huge component beyond that. As an example, they could move into a townhouse complex or into an apartment complex and befriend the local children in these complexes and there's no requirement to register.

It's a simplistic approach, and I don't accept that as an appropriate solution to what is an attempt to deal with reducing victims in our society.

**Mr Clark:** This is a big step forward in the province, developing this offender registry, but I see some major gaps also—and you stated it earlier—in terms of national versus provincial initiatives.

One of the concerns that have been raised back in my own community is, what is preventing sexual offenders from simply leaving the jurisdiction of Ontario?

**Mr Robertson:** I think you have to start somewhere. It would be easy to turn away and say, "Let's not move until the federal government is prepared to move." That's not what leadership is about, and that's not what we here in Ontario are about. We believe the time to move is now, and if we have to start here, I think it's a sign of things to follow and it's only a matter of time until the people of Canada will call for the federal government to fall in and support this legislation.

**Mr Bryant:** Thank you for coming, Chief Robertson. I've got a couple of questions. The first one is with respect to the province-wide computer network for policing that you spoke about near the end of your submission. Obviously that is the ideal technological investigative and preventive tool we could have in this province. You indicated that the government is committed to it. Where are we in terms of actually getting a commitment so that will happen?

**Mr Robertson:** The vision is currently out there. There are technological committees under the support of the federal Solicitor General's ministry in conjunction with the Attorney General's ministry operating under the umbrella of the integrated justice system that are looking at this provincial network. Some of the issues that still need to be addressed are how it will roll out, timelines for final rollout and of course the appropriate funding associated with this.

**Mr Bryant:** You haven't got a commitment yet that we're going to get this network?

**Mr Robertson:** I'm optimistic. I think it will come through. There is going to be an additional funding requirement, but in the hope that public safety is a continuing commitment, I think we'll get through that.

**Mr Bryant:** I hope you're right.

I agree that we've got to start somewhere. Some view a federalist system as providing for laboratories of democracy where the province can lead and other provinces can follow and the federal government can follow too. What else can we do, going into the future, with respect to this bill to make it better, specifically, and more generally in terms of dealing with sex offences in Ontario?

**Mr Robertson:** If you're able to convince the provincial constitutional people that it's worth a stab at proceeding to making this compulsory as part of the release provisions of a parolee into Ontario—in other words, a condition of your release will be that you will be required to register—I think it would be worth a constitutional attempt.

I've been in policing for 32 years, and this is not unlike the days—and I was confronted with those days—when we first put in the drunk-driving laws. What society did during the drunk-driving law changes and the compulsory roadside test is that we challenged the constitutionality of what was viewed as the arbitrary right of the police to stop people and give them roadside testing. But because of the public concern over the issue of safety and the trauma associated with victimization by drunk drivers—the victims who were created by drunk driving—they felt that was a fair infringement on the charter.

I can't think of anything more parallel to that than when you put a face on the victims. When you hear of 1,260 offences in Ontario last year, and think that in each and every one of those offences there's a face, a human being who has been sentenced to a lifetime of trauma as a result of the actions of that offender, surely to goodness any modern civilized society would accept that as a reasonable infringement on the charter.

I encourage you to proceed to see if we can't put some teeth in there that will make these people register if they are to be subject to early release.

**Mr Bryant:** Thank you. I will.

**The Vice-Chair:** Thank you, Chief Robertson. We appreciate your taking the time to appear before the committee.

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#### JOHN HOWARD SOCIETY OF ONTARIO

**The Vice-Chair:** The next presenters will be the John Howard Society of Ontario, Mr Bill Sparks. Welcome to the committee. Could you state your names for the record, please.

**Ms Barbara Hill:** I'm Barbara Hill, the director of policy development for the John Howard Society of Ontario.

**Mr Bill Sparks:** I'm Bill Sparks, the executive director of the John Howard Society of Ontario. We're pleased to appear before the committee today.

The John Howard Society of Ontario, as you may know, is a social service organization serving individuals, families and groups at all stages in the youth criminal



justice system. We are presently in 17 local communities, and last year we saw over 50,000 people.

Our mission is effective, just and humane solutions to crime and its causes, which brings us before you today to talk about the effectiveness of this legislation. We have put together this submission from our experience in working with people in conflict with the law, our knowledge of the research relating to sex offenders and our experience of other jurisdictions in matters relating to information systems designed to protect children and other vulnerable groups. I draw your attention to the written submission that's been given to you, which quotes that current research and cites references.

First, we want to make it clear that the John Howard Society of Ontario understands the impact of sexual offending on victims and on the community. We want to see the incidence of sexual offending reduced. Our interest is in how best to accomplish this. We believe that is through quality, accessible treatment, not a registry.

Bill 31 may be attractive because it appeals to the public intuitively and gives the illusion of doing something about sexual offending and sexual offenders. But we believe that a longer look at the facts and the research shows that it is not a good, effective crime control strategy and not good social policy.

The major points of our opposition to Bill 31 relate to the myths upon which the bill is premised:

(1) That we are in the midst of a crime wave of sexual offending. In fact, rates of sexual offending have decreased substantially since 1993.

(2) That most sex offences are committed by predatory strangers. In fact, many are committed by family members and friends.

(3) That most sexual offenders reoffend sexually. While research in this area, particularly in the very long term, is limited, what is available shows that this is not the case and that the reoffense rate depends on the nature of the sexual offence.

(4) That nothing works to reduce reoffending. In fact, evidence is growing that treatment does work to reduce reoffending.

(5) That a registry would define everyone who is a sex offender. In fact, the majority of people in prison for a sexual offence have not been convicted for a sexual offence in the past.

(6) That there is no current information system that could assist the police in their investigation of sex crimes. In fact, we have CPIC, the Canadian Police Information Centre system; notification to the police of releases from federal prisons through the CCRA, the Corrections and Conditional Release Act; the Ontario Safety Act, which permits disclosure of personal information by the Ministry of Correctional Services; and the Ontario child abuse registry.

We are particularly concerned that the costs of establishing and maintaining a registry are high, against the benefits, which are questionable. We have heard quoted \$5 million to \$6 million, a figure that we see as conservative and not fully taking into account court and police

costs—and we've already heard submissions today from police and other agencies for additional resources—in order to get one additional piece of information: the individual's address. The reliability of this information depends on the degree to which individuals comply, and data from the US suggest that there was missing or inaccurate information in almost half of the files of those to be registered. Verifying the information will no doubt result in extra police costs.

We are also concerned about the unintended consequences of the registry, such as:

(1) Encouraging a false sense of security. This may undermine support for those activities that we know make a difference, such as adequate screening and supervision in organizations involved with children and other vulnerable groups, and treatment.

(2) Resisting the inevitable pressure to make the registry publicly accessible, and all the problems associated with a publicly accessible registry system, which we believe are hazardous to both the individual and society at large, including vigilante behaviour directed at both the registered individual and family and friends; driving the offender underground, which works against the factors which assist reintegration—the Sarnia-Windsor example was already mentioned today—undermining the motivation for treatment; transferring the problem to another province if individuals move to avoid registration and the possibility of public identification; working against pre-release planning—those who fear identification will not plan for their release for fear of identifying their destination.

(3) Exposing people to special liabilities and punishments on the basis of predictions of future conduct, legislative action which should not be done without a clear demonstration of the necessity of doing so and of the effectiveness of the proposed measures. The legislation certainly adds to the reach of the law—people can and likely will be incarcerated for lengthy periods of time for not registering. We have to examine how much this will cost us, socially, economically and in human terms.

Our alternative would be to use the resources, both in terms of time and money, that would be allocated to the establishment and maintenance of the registry—all that money instead for treatment services. Specialized, professionally operated and adequately funded treatment services should be available and accessible to all, not just those currently under sentence and in custody facilities, to treat the offender, assist in the development of a plan for relapse prevention—and there is good research on the success of relapse prevention—and link the community and the offender to treatment services.

Supporting the focus on treatment would be a greater use of conditional release and the appropriate targeting of community-based support and supervision. We've already heard today about community-based support and supervision. We've heard about Bill C-55, section 161, talking about 10 years of supervision, and in some cases lifetime supervision; section 810 of the Criminal Code, requiring police registry; and we've also heard about the



Ontario Review Board, under the mental health conditions, where the hospital would act as the power to inform and then have the police apprehend and bring back to hospital custody.

To this end, our strategy calls for an end to policies and practices that undermine the gradual release process, such as detention under federal legislation and the current actions of the provincial government geared to decreasing the use of parole and temporary absences.

In summary, we feel that we can best prevent these kinds of offences through adequate accessible treatment, through adequate supervision and through adequate gradual release in which these two elements are supplied. If we have to take \$6 million, which according to the research has assisted in the United States in the police making a faster arrest after the fact, I would rather put the \$6 million into preventing the crime. Thank you.

1210

**The Vice-Chair:** Thank you, Mr Sparks. Mr Mazzilli.

**Mr Mazzilli:** Sir, in your professional opinion—you've worked with offenders in the past—how can you prevent the crime if an offender is not willing to take part in treatment?

**Mr Sparks:** There are a hundred ways in which an offender who indicates initially that he's not willing to take part in the treatment can be counselled into that treatment. Sometimes the problem is that the federal government is saying or the provincial government is saying as part of the administration within the prison that "You have to do this," and that's a rebellion, because he doesn't have to do that. There are organizations like the Salvation Army, the Elizabeth Fry Society, the John Howard Society, the Mennonite Central Committee, that sit down with the person and say, "This is in your best interests and those of everyone around you."

**Mr Mazzilli:** I understand that, sir. But then that person says, "I do not want to take any treatment." How are you going to prevent any crime with an individual who refuses to take part in any treatment?

**Mr Sparks:** At that point we have, of course, the legislation that requires 10-year supervision, but I'll defer to—

**Ms Hill:** Can I just answer that? I think what we're saying is that no measure, in effect, is going to prevent every crime, but what approach is going to give you the best lowering of recidivism? The suggestion is treatment as opposed to a registry, that if a registry is going to undermine treatment, people's motivation for treatment, their pre-release planning, all of those kinds of things that research has shown reduce recidivism—that's where I think we're saying we want to put our money. You can't say that any approach will absolutely prevent every crime.

**Mr Mazzilli:** Would I be correct in saying that governments of all sorts over the years have increased funding for treatment?

**Mr Sparks:** That's probably not correct. The Ontario Ministry of Correctional Services right now is facing a \$60-million deficit. They are building, as you know,

superjails. They have expressed with the new minister, which is a breath of fresh air, an interest in what works, an interest in effective treatment, but they are still scheduling to close the Ontario Corrections Institute, an award-winning treatment institute. They've given it a breath of fresh air, a three-year reprieve, but it's still on the books to close.

**Mr Mazzilli:** But in the past with that funding, there was never any measurement as far as what treatment success was achieved at the end of enormous funding increases—

**Mr Sparks:** Oh, no, you—

**Ms Hill:** I think that's changing, though. I think there is far more now, whenever you go into some kind of program, an evaluative component attached to that. Even if you look at the research around the efficacy of treatment services for sex offenders, what they're saying is that the results are becoming more and more positive. It has to do with the fact that there certainly is a whole lot more emphasis being put on treatment services, a whole lot more emphasis being put on evaluating that treatment service, and I think rightfully so.

**Mr Sparks:** I think Canadians can be very proud too. The research here actually has been done by Professor Don Andrews at Carleton University and Professor Paul Gendreau at the University of New Brunswick around what works and what doesn't. So there's a good body of research.

**Mr Mazzilli:** Thank you.

**The Vice-Chair:** Mr Beaubien, you have a short question?

**Mr Beaubien:** Yes. Thank you for being here this morning. I'm not going to comment on your presentation, because I find it disturbing at times.

Mr Sparks, you mentioned that costs are high against the benefits. Could I ask you what you think the costs of rehabilitating a young person who has been sexually offended by somebody are?

**Mr Sparks:** In Ontario they are certainly, in terms of the treatment, high in terms of per diems and high in terms of hospitalization. What we have heard and what we are seeing is that the Ontario government in its previous budgets has looked at reducing the treatment for mental health, looked at reducing the treatment for hospitalization, and has had a preponderance of solutions in terms of using the criminal justice system instead. We certainly recognize and we would like to prevent those high costs.

**Ms Hill:** I think we come here today, as well, really seeking fewer victims. We're saying that the approach is supposed to focus on treatment. What we're seeing is a real emphasis there that it can reduce recidivism. So that's really important for us and we are looking for approaches that don't undermine treatment, in the community and in custody facilities. We want to see the emphasis put on that.

**Mr Beaubien:** I don't think anyone wants to undermine the education and treatment factor. However, I think the general public is looking at some type of pro-

tection, as we've heard from different presenters, not only for adults but for young people who are certainly susceptible to some of these predators. When we talk cost, an ounce of prevention certainly may be worth a pound of whatever at the end of the road, but I find it difficult to say that the cost—I don't know exactly how you put it, but that the costs were high against the benefits that could be generated from having a registry. I cannot rationalize that one.

**Ms Hill:** Could I just clarify that? It was saying the costs are high and the benefits are questionable. So you have to always look at one side and the other. You also have to say, if I have that \$5 million or \$6 million, is there another approach in which the benefits are clearer, in which we may get more for investing in that approach? I think that's what we were saying.

**Mr Bryant:** I also thank you for coming and thank you for providing obviously a very thoroughly researched and thoughtful presentation. I agree with some of your observations; I disagree with your conclusion.

Let me get right to the heart of it. Am I right that you seem to be taking an either/or approach? The assumption is you've got a pie that's so big and has so many millions of dollars in it, and you're saying that if you have a choice between effective treatment programs and community-based support and supervision on the one hand, and a registry on the other hand, then you're opting for the latter.

**Interjection:** Former.

**Mr Bryant:** What would be the problem with trying the preventive, investigative approach, the costs and benefits to go with the registry, as well as effective treatment and community-based support?

**Mr Sparks:** Well, let me just speak to what works and what doesn't work. So far in the States we have no evidence at all that sex offender registries work to prevent the offence. The evidence is that after the fact the police have more information and can make the arrest quicker. What we really want to do is prevent the crime; we want to prevent the crime in the first place. We want to prevent the sexual offence in the first place.

We know there are a number of people who have committed a sexual offence and who are coming out. We know, based on the research, that if they come out under the proper supervision and the proper programming, the percentage of reoffence goes way, way down, so that's a way of preventing the offence.

We also know that for a large number, the majority of people who are serving sentences for sexual offences, that's their first offence, or at least it's the first time they have been known and arrested and tried and found guilty.

What we're really talking about there is where the huge majority of sexual offences occur, which is in the family. We need to find ways in which to intervene with the family to support and reduce sexual abuse within the family. We also know that the huge majority of sexual offenders have been sexually abused as young people.

So it's not just an either/or choice. It's the way in which we say that a registry could draw money—not

even just money and resources, but it gives a false sense of security and it uses the criminal justice system as a solution to all the other problems, and there's no evidence to show that in fact this solution works.

**Mr Bryant:** Let me just push you on this a bit. Let's sort of agree to disagree on whether or not sex offender registries will be effective. I think certainly, rationally speaking, if in fact police have the opportunity to get more information about potential offenders out there, necessarily that's going to be of some benefit. And as we heard before, if it ends up preventing just one crime, then it's worth every dollar.

1220

Other than the false sense of security—and, to be fair, one could say that about just about any government initiative in this area. I'm not so concerned about the false sense of security, frankly, certainly not in Guelph-Kitchener right now. I don't think there's any false sense of security about people's safety. Leaving those aside, I fail to see why having the registry along with an effective treatment and community supervision program would be somehow not worth the effort. Why is it not worth the effort?

**Ms Hill:** Could I answer that? There is very little research about whether in fact it undermines. There's no evaluation of treatment. But certainly some of the material that I've read from the States expresses some concern about that. There was one situation in Vermont where, during a period of time when there was a lot of publicity around a new registry and community notification scheme, the local sex offender referral hotline, if you want to call it that, noticed a really dramatic decrease in their calls. The idea was that they were really afraid, with all this publicity, that people, for fear of identifying themselves and for fear of what that would do to them in the local community, were not accessing and using the treatment resources that were there. I'm just saying that's a concern to us.

**Mr Sparks:** Maybe I can just add to that. What we've also mentioned here is the danger of the tendency of sexual offender registries in the States to have been made publicly accessible. We had this terrible example in Windsor and Sarnia where a person had been released to Windsor. Several agencies, including the police, were working with this individual and a plan was in place. The police had decided that they were not going to release this person's name. They felt there was a sufficient plan. Without authority, an individual police officer notified the community, notified the press. The whole plan fell apart. With the work of several agencies he ended up in Sarnia for a very brief period of time. He said to those agencies: "I don't have any support here. I don't have any plan here. I need to go to another town where at least I've got some people I know." His plan was falling apart and disintegrating. In fact he moved to another community away from Sarnia and reoffended. It's a way in which the notification, the registry, all of those things in fact undermine community safety.



**Mr Kormos:** Thank you very much for coming. You know I support the bill. This whole business of the risk of publication—you know, like I do, that historically our court system has been very public and it's only because of the size of our communities and the complexity of access to those courtrooms—in days gone by the whole community knew when somebody was convicted because the courtroom was that much of a public place. So I have probably less concern.

Quite frankly, I want to know whether the person who has moved in down the street has been convicted of a number of car thefts. I similarly want to know whether the person who has moved in down the street has been convicted of molesting kids or raping women. This is public information to begin with, in theory. The press can't be in every courtroom and they have far less interest in reporting what they consider mundane offences, and it's sad that we should consider them mundane.

I appreciate that registries don't prevent the offence. Nobody has suggested that here. I agree with you wholeheartedly on the treatment and I'm a great supporter of OCI. We've raised this so many times with this Solicitor General and ministry of corrections. It's one of the few programs that has any meaningful success rate. I agree with you wholeheartedly.

But I similarly have to advocate for the police. I don't think any of us can dispute that it's a valuable tool for them to have a database around previous sex offenders—and I appreciate that there are all different kinds of sex offenders. Some types of sex offenders have higher recidivism rates than others, and we all know what we're speaking of.

But I've got to tell you, there's a letter that has been sent to this committee that's in some respects shocking, and I'm not even going to name the author. But here's a guy who writes a letter opposing the bill. I'm reading this and the little hairs on my arms are starting to tingle because I can read through the lines. I've heard these people before, right? And sure enough, bingo, by the time you get to page 3, he's a convicted sex offender. But you see, in what I consider the typical, manipulative way—and the pecking order. He wants to point out that he's a non-violent sex offender—as if there was somehow some status in that—of adolescent males. "Non-violent." That's code language. We've heard it come from a number of sources. This is the rationalization. This is the con job. I resent that and what I particularly resent is him crowing about the fact that he's not going to be included in this legislation.

Well, I've got an amendment tabled here that will include him in this legislation. Is there a stigma attached to being publicly registered even though the information is kept quasi-private? You bet your boots there is. Do I think there should be some stigma attached to raping women or kids? Yes, there should be some stigma attached. I'm very concerned about the normalization of so much behaviour. I'm convinced that incest is as high as it ever was historically, perhaps even higher. I'm convinced that just anecdotally—we haven't got the data but we see

the frequency of reported cases of child interference, child molesting, child sexual assault in the context of various volunteer organizations and the difficulty those groups have in controlling access to kids.

I don't think we've begun to make a dent and I'm convinced that part of it is because—sure, the notorious Toronto Sun and Toronto Star front page sex offenders are notorious by virtue of the publicity, but I think we've got to stigmatize this. I appreciate and support your efforts for treatment and I've been on this government's tail for their abandonment, for instance, of OCI because at some point, yes, most of these people get out of jail and the community still has to cope with that. But I also want to give the cops the power or whatever little nuggets of additional resources that this bill will give them, appreciating everything that you say.

I hear everything you're saying. If those tools are going to be valuable, especially in those crisis situations—what did we hear? The life expectancy of a kid who has been abducted for the purpose of molestation—I'm sorry; am I correct?—is three hours. Do you know what I mean? The life expectancy of a kid who has been abducted, according to the OPP, for the purpose of sexual molestation is three hours. Is that melodramatic for me to say that? Probably. Is that every example of child sexual assault? Probably not. But if this sort of registry—and that's why I'm prepared to go along with it without qualms—can give the cops the computer input they need to find one kid—again, this is typical stuff—fair enough. I'm game.

All of us, in all our communities—I come from the Niagara region, which has suffered some horrendous assaults on all of us, on the whole community; some horrendous crimes. You have to understand where some of us are coming from, or certainly where I'm coming from. Those horrendous crimes have impacted on us, and in the case of the Niagara region, it was as a result of lack of resources available to police and some discordance in terms of police forces working together.

I'm sorry. I appreciate what you're saying and I support your whole goal in terms of more money for treatment, and this government has not been helpful in that regard. I don't think you have. At the same time, we should be concerned about ensuring that there's as low a recidivism rate as possible, but we should also, and this is why I'm here doing this, be concerned about the fact that when there is a repeat offender, he or she, but "he" almost inevitably, is caught as quickly as possible. At that point you have to dismiss his or her rights and talk about the protection of the community. That's the rationale for my support for the bill, having heard everything you said and agreeing with virtually everything you said.

**The Vice-Chair:** Thank you very much, Mr Sparks and Ms Hill. I think those were all the submissions that we had scheduled. The committee will recess until 2 pm for clause-by-clause consideration of the bill.

I'd also like to indicate that the Canadian Bar Association of Ontario has cancelled. They were on the list but they have cancelled.

*The committee recessed from 1230 to 1410.*

**The Vice-Chair:** I'd like to call the committee to order. This afternoon we'll be proceeding with clause-by-clause of Bill 31. We'll start with section 1.

**Mr Mazzilli:** I move that section 1 of the bill be amended by adding the following subsection:

"First Nations police services

"(2) Where an offender resides in an area where the police services are provided by a First Nations police service, references in this act to a police force shall be read as references to a First Nations police service, with necessary modifications, and references to a police officer in this act shall be read as references to a First Nations constable."

**The Vice-Chair:** Are there any comments?

**Mr Kormos:** Chair, could Mr Mazzilli explain the amendment?

**Mr Mazzilli:** Absolutely.

**Mr Kormos:** If he has briefing notes to that effect, I don't see how it should be a problem.

**Mr Mazzilli:** This essentially has to do with the services in the registry being extended to First Nations police services. That is the intent of the act, and it was overlooked in its original form.

**Mr Kormos:** That's fine. I support it.

**The Vice-Chair:** Shall the amendment to section 1 carry? Carried.

Shall section 1, as amended, carry? Carried.

Let's move to section 2. I understand there are no amendments to section 2.

Shall section 2 carry? Carried.

Moving to section 3, are there any amendments to section 3?

**Mr Mazzilli:** Yes, there are.

I move that subsection 3(1) of the bill be amended by striking out the portion before the clauses and substituting the following:

"Offender required to report in person

"(1) Every offender who is resident in Ontario shall present himself or herself at a designated bureau, police station or detachment of the police force that provides police services where he or she resides or at another place in the area where the police force provides police services designated by that police force."

**The Vice-Chair:** Are there any comments with respect to this amendment?

**Mr Kormos:** I really don't understand how this differs from the original bill, which requires him to present himself at the police bureau that provides police services in the area where he or she resides. Is that not the same thing?

**Mr Mazzilli:** This amendment is that a police service will be able to designate a location in which reporting shall take place, that in urban centres, where there are many police stations, if you will, they have some way of controlling where people attend for registration purposes.

**The Vice-Chair:** Any further comment? Shall the amendment to subsection 3(1) carry? Carried.

Are there further amendments to section 3?

**Mr Mazzilli:** I move that subsection 3(1) of the bill be amended by striking out "and" at the end of clause (e), by adding "and" at the end of clause (f) and by adding the following clause:

"(g) on a day that is not later than one year after and not earlier than 11 months after he or she last presented himself or herself to a police force under clause (f)."

**The Vice-Chair:** Any comments?

**Mr Kormos:** Mr Mazzilli, please.

**Mr Mazzilli:** Mr Chair, if I could call on a ministry lawyer to explain for Mr Kormos the different sections there, that would be proper.

**The Vice-Chair:** Is that in agreement?

**Mr Kormos:** Because of course we had a 1 o'clock time frame and the first time we've had access was just a few minutes ago. I think it's important that this be on the record, that these amendments be spoken to.

**Mr Mazzilli:** It would be proper if a ministry lawyer could be seated here to explain any housekeeping items, if you will, in this bill that the government intends to clean up through this process.

**The Vice-Chair:** If the ministry lawyer could sit in the witness chair, I'd appreciate it. We are dealing with the amendment to clause 3(1)(g), I understand, if you could explain to the committee the purpose of the amendment.

**Ms Marnie Corbold:** Certainly. This amendment has been added just to make it clear that there is an annual registration obligation on the offender. The way it was previously worded, it wasn't entirely clear that there would be an annual obligation, so this section has just been added to make it perfectly clear that the offender does have to report on an annual basis.

**Mr Kormos:** There's a one-month time frame in which that's to occur?

**Ms Corbold:** Again, rather than saying it was one year to the day, it was giving sort of a month's time within that year that they could register.

**Mr Kormos:** OK, I appreciate that. Seriously, Chair, I just want to make sure we know what we're voting on when we vote on these things because Lord knows enough has been voted on around here without people knowing what they're voting on.

**Mr Ted Chudleigh (Halton):** Speak for yourself.

**Mr Kormos:** I've watched it too often, Mr Chudleigh. Do you want me to name some of the bills? Shall we start with tax bills or the megacity Toronto bill?

**Mr Beaubien:** A different side of the House, too.

**The Vice-Chair:** Order. Shall the amendment carry? Carried.

Is there another amendment to section 3?

**Mr Mazzilli:** I move that section 3 of the bill be amended by adding the following subsection:

"Designated places, times and days

"(2.1) Every police force shall designate one or more bureaus, police stations, detachments or other places in the area where the police force provides police services at which offenders may present themselves for the purposes of subsection (1), subsection 7(2) and subsection 9(1) and



may also designate the days and times when offenders may present themselves for those purposes.”

**The Vice-Chair:** Are there any comments?

**Mr Kormos:** I understand the intent of this. Let me say this to you, Mr Mazzilli and Chair. I appreciate that what you’re trying to do is make sure that police stations, especially those perhaps in smaller communities like the ones in Niagara which are seriously understaffed, don’t have to deal with the registration process seven days a week, 24 hours a day, because they simply don’t have the staff there to deal with that.

I have some concerns, however. Let me tell you what they are. You delegate the power to determine access times to the respective policing units. In itself, that would be fair enough. If we want this to work, I believe we have to make it as easy as possible to facilitate registration as much as we possibly can.

I can speak for Niagara region because I’m obviously familiar with their respective stations and the type of staffing they have. But I can also anticipate parts of the province where the policing units are much smaller than they are, never mind in Toronto, in places like Niagara. I don’t dispute the intent of what you’re doing here. What I’m concerned about are police services boards with a serious lack of resources and staffing, because you’ve heard already from at least one of the submitters that the police are going to need some financial support. This issue came up during the whole business of investigating the backgrounds of volunteers. Police are going to need financial support to facilitate the paperwork and the actual load that this will constitute. What worries me is that the intent of this bill could be frustrated through the back door, where nobody would dare frustrate it through the front door.

1420

I appreciate that it’s not your function during this committee to talk about what sort of support police services are going to be given for doing this kind of work. There’s going to be a whole new sort of load on them. We understand that. We don’t know what that load will mean in different parts of the province. I anticipate that in Toronto, simply because of its size, there’s going to be probably an incredible load on whatever police stations are delegated or authorized to do this work.

I’m concerned about this because you give carte blanche authority to the police services to determine hours, for instance. I’m not going to prejudge them, but I do know that many of them are strapped financially. I’m concerned about this being so loose that it permits police services boards to perhaps be overly restrictive, such that it provides a disincentive to registration. It’s not a big concern. It’s not a mega-concern, but I’m just worried about how you’ve delegated it.

I would have felt far more comfortable if you had said “minimum access periods,” that they should provide at least two business days a week during business hours, something like that, so that people don’t have an excuse for not going. That’s all I’m trying to anticipate here, people justifying, be it legitimately or illegitimately, not

fulfilling their obligations under the act by saying: “Jeez, they’re only open two hours on Friday afternoons and for five consecutive weeks. That’s when my aunt died, my grandmother died and I had three job interviews.” That’s what I’m concerned about.

This will pass if the government members want it to pass, but I wish it would be rethought. I’m not sure it has to be part of the bill, because this could be as readily done by way of directive. It doesn’t have to be part of the legislation. This could as readily be done by way of directive or policy that’s set by the central agency responsible for maintaining the registry. As a result, there are going to be conversations between police services boards and your ministry about some sort of subsidy or compensation for police services boards doing this. I wish that this sort of thing were the subject matter of those negotiations rather than a part of the bill. I’m uncomfortable with this being a part of the bill. I don’t think it’s helpful.

**Mr Mazzilli:** Mr Chair, if I could just respond to the concern that was raised. In urban Ontario certainly registering at all times is generally not a problem. In this amendment in the second-last line is the word “may,” and Mr Kormos is very well aware of what “may” means in technical legal language. Certainly, police departments do not have to restrict times or locations. It says, “one or more bureaus, police stations.” It’s very specific as to what police services have to perform. In areas outside of the urban centres that Mr Kormos might be concerned with, rural Ontario, northern Ontario, this gives them some leeway as to how to deal with large geographic areas and still comply with the legislation.

**Mr Bryant:** My question is, what would be the alternative? Your concern is that they’ll be straightjacketed, and as a result, what would happen? What are you trying to prevent by passing this provision?

**Mr Mazzilli:** There’s obviously a small service in northern Ontario or rural Ontario that may have a designated location and time when people go to register, where we know that some of these detachments are not staffed 24 hours a day with someone there because of their geographic areas.

**The Vice-Chair:** Any further comments? Shall the amendment carry? Carried.

Shall section 3, as amended, carry? Carried.

We move now to section 4 of the bill. I understand there is an amendment to section 4.

**Mr Kormos:** I move that section 4 of the bill be amended by adding the following subsection:

“Retention of information by police force

“(2) The police force shall retain, in a manner approved by the ministry, a copy of the information submitted to the ministry under subsection (1).”

This was the subject matter of some discussion during the briefing period this morning. Clearly the ministry is going to prescribe the manner in which the central registry is maintained—the standards, the format of it, the structure of it. We talked with several people, and we also talked in the briefing this morning about the fact that

this serves two interests: one at the local level, where an offender has to register, and effectively giving notice to the local police force that he or she is in their jurisdiction. So it's valuable to the police in that regard. They know that offender X, Y or Z is now in their community at that address. They, similarly, then are obligated to transmit this to the central registry, which is going to have standards set for it by the ministry.

I want the retention of that information at the local level uniform as well so that every police force maintains that information in the same form and in the same manner. Although it's going to the central registry, where it's being regulated by the government, the ministry through regulation or directive, it's also going to be in the local police services.

I also want local police services to feel comfortable keeping that information. Do you understand what I'm saying, Mr Mazzilli? I don't want them to think they've fulfilled their responsibility once they've sent that on to Toronto or Orillia or wherever the registry is going to be maintained. I want to know that the manner in which they're keeping that information and accessing it—and you'll see there are some other amendments that are consistent with this one—is in accordance with the standards set by the ministry.

This is for the protection of the police, the respective police forces, for the protection of the public and also addresses what could be issues about misuse, or allegations, rather, of misuse of this information. That's my reason for putting this amendment forward. Is this regime going to be attacked? Of course it is. You know that, Mr Mazzilli. There are critics of it who are going to attack the process. You know where some of that attack is going to come from, the legal attack. Fair enough, the courts will deal with it if that happens. But I think, by passing this amendment, we're putting respective police services boards in a position where, assuming they comply with the standard, they are covered, so to speak, in terms of having not only received the information and sent it on, but then kept it for their own purposes locally, because there surely has to be some continuity there.

**The Vice-Chair:** Mr Mazzilli, would you like to respond?

**Mr Mazzilli:** Mr Chair, we will not be supporting this amendment. I want to focus on what our intent is here today. It's to create a provincial sex offender registry, one that will have the most current information province-wide. That is the intention of Christopher's Law. This amendment essentially tries to dictate how local police services keep their own information. As long as they keep that information in the lawful manner, we're quite supportive of that, and the local information, or relying on the local information, can also be very dangerous. By creating the provincial registry, that is the one that should be the most up to date at all given times.

**Mr Bryant:** I appreciate the spirit in which you make your comments, Mr Mazzilli. I don't see the danger of insulating police services boards with the comfort level that they are allowed to keep information that they send

off to the sex offender registry, as we heard. It's not just the registry, but it's so-called old-fashioned police techniques, with which you are familiar, and they are going to want to use that information. I don't see this as somehow restricting them, but I think we agree on the principle. We just disagree on the particular mechanics of getting there. That's all I have to say.

**The Vice-Chair:** Any other comments?

**Mr Kormos:** Recorded vote.

### Ayes

Bryant, Kormos.

### Nays

Beaubien, Chudleigh, Elliott, Mazzilli.

**The Vice-Chair:** The amendment has been defeated.

Shall section 4 carry? Carried.

We'll proceed now to section 5. I understand there are no amendments to section 5.

Shall section 5 carry? Carried.

There is an amendment to section 6.

1430

**Mr Kormos:** I move that section 6 of the bill be amended by adding the following subsection:

"Retention of information by police force

"(4) The police force shall retain, in a manner approved by the ministry, a copy of the information submitted to the ministry under subsection (3)."

Once again, this is self-explanatory, however much it is consistent with the amendment to section 4 which was rejected by the government.

**The Vice-Chair:** Any other comments on this amendment? No?

**Mr Kormos:** Carry.

**The Vice-Chair:** All those in favour of the amendment, please raise your hands.

**Mr Kormos:** How come in other instances you asked, "Does this motion carry?"

**The Vice-Chair:** Because of the previous vote, I understand there is some opposition to the amendment.

All those opposed to the amendment, please raise your hands. The amendment has been defeated.

**Mr Kormos:** You're not friends with these people, are you, Chair? You're not a member of their caucus, are you?

**The Vice-Chair:** Shall section 6 carry? Carried.

We move now to section 7 of the bill. I understand there is an amendment by the government.

**Mr Mazzilli:** I move that subsection 7(2) of the bill be amended by striking out "at a bureau, police station or detachment of the police force that provides police services in the area where he or she resides" in the seventh, eighth, ninth and tenth lines and substituting "at a designated bureau, police station or detachment of the police force that provides police services where he or she resides or at another place in the area where the police



force provides police services designated by that police force.”

**The Vice-Chair:** Are there any comments? Shall the amendment carry? Carried.

Shall section 7, as amended, carry? Carried.

We now move to section 8 of the bill. There are a few amendments.

**Mr Kormos:** I would ask that the amendment identified as number 8 in the package of amendments be withdrawn.

There's an amendment that's labelled as number 9, and we'll be moving that.

**The Vice-Chair:** So you'll proceed with amendment number 9, and number 8 has been withdrawn.

**Mr Kormos:** I will tell you that I purport to move this amendment in a modestly amended form. I understand that that takes unanimous consent. I think it's an important issue and I would hope there would be some attention given to its amended form. So I'll read it in its amended form.

I move that section 8 of the bill be amended by adding the following subsections:

“Same

“(1.1) This act applies to every offender anywhere in Canada who was convicted of a sex offence no more than 10 years before the day section 3 comes into force, is not serving a sentence for a sex offence on the day section 3 comes into force and has not received a pardon for that sex offence.

“Same

“(1.2) A person described in subsection (1.1) shall comply with subsection 3(1) no later than a day to be named by proclamation of the Lieutenant Governor.”

I need unanimous consent for that motion to go to the floor.

**The Vice-Chair:** Does everyone understand the change? Is there unanimous consent? All right. Go ahead.

**Mr Kormos:** If I may speak to it, in being addressed by any number of people here today, I was struck by the importance of this registry to the police and therefore to the community, not as a surrogate for treatment, not as a surrogate for vigilance on a daily basis by our communities, by our families, by parents, by schools, by volunteer organizations etc.

But it struck me clearly that the day Bill 31 comes into effect, this new regime of sex offender registration, sex offenders ranging from ones with the lowest possible sentences and some without even custodial sentences all the way through to the most serious and highest-sentenced sex offenders will be forced to submit to the registry. What we will have, though, in our communities is any number of sex offenders who were convicted and whose sentences were completed before the day Bill 31 comes into effect. We're talking about multiple rapists. We're talking—again, I don't have to list the types of people who will be excluded from this regime because their convictions and sentences occurred and were completed prior to Bill 31 coming into effect. That's why I amended the motion as it was originally prepared, be-

cause I received some comments about the fact that the motion without the amendment—basically, we're talking about a 10-year time frame.

Anybody who was convicted and completed their sentence—if they haven't completed their sentences they're caught by Bill 31 anyway, right? But the ones who have completed their sentences—again, we're talking here including in this class of people some very serious offenders. Let's not try to pretend that they're not. These people aren't going to be subject to a sex offender registry; they're not going to be on the same database. I understand that the police have other ways of documenting these sorts of offenders, but the reason everybody is in agreement about a sex offender registry is because of the precision of it and because it addresses this very specific area of offences so that the police can use that as part of their broader database.

What this amendment does, Mr Mazzilli, is it includes those offenders who wouldn't otherwise be subject to Bill 31, but it restricts the time frame to 10 years. I appreciate that without that amendment it went back ad infinitum. So you'd be talking about the fact that there would be somebody out there with a 25-year-old sex offence who hasn't repeated or hasn't been convicted again, and I realize maybe it isn't reasonable to put them into the regime because there haven't been any subsequent offences for, let's say, 25 years. But the reason we have the second paragraph here is because it's not intended that this section come into effect on the same day as Bill 31. Clearly it would provide that those people who had outstanding criminal records that resulted from a conviction within the last 10 years would have an opportunity to apply for a pardon. If those people got pardons, well, what can I say? They got pardons. But if they didn't get pardons, using that time frame that's allowed them, then they'd be included in this registry.

I can't help but think, however bizarre this sounds—but, I mean, this whole committee process, our having to address this, is an unpleasant and quite frankly sometimes scarily bizarre process, this whole subject matter. There are going to be some people out there, literal sex offenders, some hard-core sex offenders, who are basically saying: “I'm not on the registry. I don't have to report. I don't have to advise the local police where I move to, where I live.” Any number of predators will be exempted.

This isn't the perfect solution, but I suggest to you, Mr Mazzilli, please, that it addresses some of the problem. I'm not faulting you and the drafters of the legislation, but you and I both know there were some things that were overlooked during the course of the legislation drafting process. That's why you moved your amendments today. Let's be fair. You and I both know they didn't flow from the submissions that were made during the course of today's brief period of hearings; they were, upon reflection, oversights. I submit to you that it was an oversight that the legislation didn't try to do something to encompass people convicted and having served their sentences prior to the day Bill 31 becomes law.

1440

If you are serious about this system and you want to make it work and you want the opportunity—because, what's going to happen? I'm just speculating: The police are confronted with an investigative scenario. They access the sex offender registry. But then they also have to say, "But not every sex offender, including some very serious sex offenders, is on that registry, because they didn't fall within the scope of Bill 31." How helpful is that to the police?

Once again, we're trying to give the police as complete a database as possible so they can work rapidly. Yet if they still have two worlds, two communities in which they have to investigate, the sex offender registry is going to become less valuable than it would be if it were more inclusive. I suggest to you that this makes it more inclusive, that giving a time gap between Bill 31 and when this subsection becomes effective permits people who might be eligible for pardons to seek pardons, and that 10 years is a reasonable time frame. What persuaded the 10 years was that 10 years is the maximum amount of time on the sex offender registry for people convicted of the lower tier of sex offences. I didn't pick 10 years arbitrarily. I thought it was reasonable in itself, and it also is consistent with the lowest level for a sex offender caught by Bill 31. It gives some benefit of the doubt to pre-Bill 31 offenders, but I think this is helpful to the police. It broadens the scope of data that is available on the sex offender registry in a bona fide or legitimate way. I'm talking about people who have been genuinely convicted and people who haven't received a pardon. I hope you will seriously consider this, Mr Mazzilli.

**Mr Mazzilli:** We will not be supporting this amendment for many different reasons. As Mr Kormos has indicated, this legislation certainly does not cover all aspects and, as Mr Kormos has agreed in the past, the federal government should establish a national sex offender registry that covers all areas.

The one reason we are going on a retroactive basis is that everybody convicted prior and still serving their sentence will be required to register. However, going back 10 years would not only be an enormous strain on getting the registry going, but as Mr Kormos well knows, the legality of punishing someone today for what they did 10 years ago has not been highly successful and would put the entire bill in jeopardy. In my conversation with the Stephenson family, certainly that is not what they want at the end of the day.

There may be some of what Mr Kormos would refer to as weaknesses. They're not weaknesses we have created; they are weaknesses in the legal system that we are dictated by. At the end of the day, we want a bill that is effective and that will protect people from today forward.

**Mr Mike Colle (Eglinton-Lawrence):** When Mr Kormos was speaking, I was thinking of the celebrated case of Dulmage in Ottawa, who has served his sentence and now been released.

Does this mean that according to the way this bill is written right now, this Dulmage character isn't in the registry?

**Mr Mazzilli:** I refer that question to the lawyer for the ministry.

**Ms Corbold:** Is he still serving a sentence?

**Mr Colle:** No, he has been released.

**Ms Corbold:** No probation, no parole?

**Mr Colle:** No.

**Ms Corbold:** Then he wouldn't be captured. The only people who are captured the way it is now are those still serving a sentence, and that can be a probationary period or on parole. But if the sentence is over they wouldn't be caught.

**Mr Colle:** The concern I have is if a character like this is not on the registry—if someone should be on the registry, it's this individual.

I don't know if you saw the documentary about it on TVOntario. It was just appalling that this man, who served a short sentence, is basically free again, is now living in the same area. I would ask the government members to consider a case like this. There may be others like this Dulmage character out there, and I don't know if it jeopardizes the bill. But I certainly would want that type of person on the list. Someone who has such a brutal history should be on the list, and certainly the public should be protected in that way. So I would ask members to consider that. Because if this individual doesn't qualify, I wonder how many more there are out there who wouldn't qualify.

I would be very afraid to have him in my community and my community not knowing about it. In this case the community knows about it because it's such a celebrated case, but there could be others out there. I hope you would consider that, in light of real-life cases like this Dulmage case, which I wasn't aware of—I saw it on television; it was in a small town in southeastern Ontario—and whether you can include that or somehow look at that. These are the type of people who might skip through, and there's no way they should not be on the list. I would find it very frightening if he weren't. I just thought I'd add that; it came to mind when you were discussing it. It's something very real in my mind.

**The Vice-Chair:** Mr Kormos.

**Mr Kormos:** Just to respond, Mr Mazzilli, I listened carefully to your comments and I appreciate that one of your—do we all know that the federal government hasn't implemented a sex offender registry? Of course, we know that. Enough said. Said once, said 30 times, it's not going to change the reality of it.

I'm fortunate because I'm a New Democrat and can criticize both the Conservatives and the Liberals. You have to defend provincial government while criticizing the Liberals, and I suppose the Liberals have to criticize you while defending their counterparts. There are few of us, but we are far more impartial because we can criticize everybody.

Having said that, you talk about retroactivity. Do I have concerns about retroactivity? Yes. And you know



that the retroactivity concerns were raised by Alan Borovoy and the Canadian Civil Liberties Association, in the letter that was filed as part of the report, and I have high regard for their opinion. None the less, the bill as it is contains retroactivity in that it applies to convictions that were registered before Bill 31. I'm prepared to support that, notwithstanding the caveat issued to us from Alan Borovoy. If there is an issue around that, it will be dealt with in due course.

You have talked about this as punishment, and this isn't the case. The registry isn't part of punishment, and you should be very careful about your language in that regard. With all due respect to you, I wish you would withdraw that, because that isn't what you meant. I'm sure that's not what you meant to say. If it were punishment, then it would contravene, among other things, the charter and common law, and that is to say that punishment that is applied to you has to be the punishment that existed at the time of conviction. So I'm sure you didn't mean to say punishment and that you'll address that in short order. I'm sure you didn't mean that.

This isn't punishment. This is a system of developing a database. Bill 31 as it stands applies to convictions that occurred prior to its becoming law, and I'm prepared to vote for that. I'm prepared to support that, and if there's a problem with it down the road it will be dealt with. I raise that to counter, or frankly to contradict, your proposition that my amendment would somehow infect Bill 31.

You know as well that the class of persons you have created, who were convicted before Bill 31 and are still serving sentences, that element of retroactivity was, with all due credit to legislative counsel, contained in a separate section so it could be isolated from the rest of the bill, if need be, wasn't it? So if there are problems with it, and I hope there aren't, it doesn't mean the death of the bill. It can just be severed from the rest of the bill.

Similarly, my amendment here is in a section of the bill that can be severed, so that if it were to fail as a result of judicial scrutiny, it could be effectively ruled out without impact on the rest of Bill 31, just as your section dealing with that class of convicted persons still serving their sentences on the date of enactment of Bill 31 could. Please, reconsider.

It's 10 to 3. You guys are going to make the decision because you have the majority; there's no question about it. If you want a 10-, 15- or 20-minute recess, I'm more than willing to consent. It's not going to take us much longer; we haven't got much more to do. I think this is important enough that you may want to consider some consultation. Would you do that, please?

**The Vice-Chair:** Any other comments?

**Mr Beaubien:** I have a question for clarification. I don't have the legal experience that Mr Kormos has, but tell me if I'm right—and then I'd like to get a legal opinion on this from the ministry lawyer. If you are convicted and your sentence has expired prior to the bill being passed or being prescribed as law, you don't go on the registry, correct?

**Ms Corbold:** Correct. If your sentence is complete when the—

**Mr Beaubien:** But if your sentence is not complete—it could be a day's difference. One doesn't go on the registry because of the timing, but a person who has one day to serve is on the registry.

**Ms Corbold:** Correct.

**Mr Beaubien:** From a legal point of view, what is the difference about retroactivity? Where is the difference?

**Ms Corbold:** You have to start somewhere and, as I say, we were trying to capture people who are serving a sentence when the bill comes into force. If someone gets out the day before the bill comes into force, if their sentence is over, they're not going to be caught. It would be true of anything. The same with a 10-year period; you're going to have people before it.

**Mr Beaubien:** But if we are concerned about somebody challenging the legality of the bill, it's certainly a point of contention for me. Technically for one day, one person is on and one person is not. This is really cloudy for me. If we are looking at the legality of this bill, I can't see where the difference is. I'm not a lawyer. I don't know how the court rules, and sometimes I wonder how they rule. But tell me, as an ordinary, taxpaying citizen, why it is or is not different from a legal point of view.

**Ms Corbold:** Maybe we should take Mr Kormos up on his offer.

**Mr Beaubien:** I think it might be a good point, maybe take a pause. I certainly would like to have a brief pause, maybe 10 minutes, so we can discuss this. I think it's a point of concern.

**Mr Kormos:** I consent to that, of course, and I wish you would also talk about the severability of my amendment, should it not be upholdable, and the fact that it is very much the parallel of the current class of people, to wit, convicted before but not finishing their sentence before Bill 31 comes into play. It's too important. Let's take some time so these folks can discuss it.

**The Vice-Chair:** Is there agreement to have a 10-minute recess?

**Mr Kormos:** And I will consent to any new amendment.

**The Vice-Chair:** All right. We'll recess until 3:05.

*The committee recessed from 1453 to 1505.*

**The Vice-Chair:** We'll resume the committee. Are there any further comments with respect to the amendment proposed by Mr Kormos?

**Mr Mazzilli:** Again, Mr Chair, we will not be supporting the amendment based on the previous arguments that were made in committee.

**The Vice-Chair:** Any further comments?

**Mr Kormos:** Recorded vote.

**Ayes**

Kormos.

**Nays**

Beaubien, Chudleigh, Elliott, Mazzilli.

**The Vice-Chair:** The amendment has been defeated. Are there further amendments to section 8?

**Mr Mazzilli:** I move that subsection 8(2) of the bill be struck out and the following substituted:

“Exception

“(2) Except as provided in subsection (3), this act does not apply to a young person within the meaning of the Young Offenders Act (Canada).

“Same

“(3) This act does apply to a young person within the meaning of the Young Offenders Act (Canada) who has been convicted of a sex offence or found not criminally responsible of a sex offence on account of mental disorder in ordinary court as the result of an order made under section 16 of the Young Offenders Act (Canada).”

**The Vice-Chair:** Are there any comments with respect to this amendment?

**Mr Mazzilli:** Again, Mr Chair, I will refer it to the ministry lawyer. It's in relation to young offenders being transferred to adult court, but for a full explanation I'll refer the question.

**Ms Corbold:** The bill, as it was previously worded, did not apply to young offenders or to young persons as defined within the meaning of the Young Offenders Act. This provision would have the act apply to young persons who have been transferred to ordinary court pursuant to section 16 of the Young Offenders Act. So it would apply to young persons who were convicted in ordinary court.

**Mr Kormos:** If I may, Mr Mazzilli, you are no doubt aware of the amendment I filed, identified as number 11 in your package of amendments, which had very simply as its goal striking out subsection 8(2), that is to say, it would exempt young offenders from the exemption, or would include young offenders.

Once again I hear what you're saying. I'm not sure there's been an adequate investigation of whether this registration regime would in itself violate the so-called privacy provisions of the Young Offenders Act. I don't think there's much disagreement among us that it's somewhat perverse for a 16- or 17-year-old rapist to enjoy the privacy accorded a young offender. I find that a pretty bizarre sort of proposition.

Let me put to you any number of scenarios. You talk about the transfer to adult court. There are other people with a whole lot more experience than I have who would have access to statistics, but I am involved in a fatality in my constituency right now where we're advocating on behalf of the family of the dead victim. The alleged perpetrator, the alleged driver of the vehicle that allegedly resulted in the death of my constituent, who was a pedestrian, is a young offender. At this point in time the

crown is reluctant to pursue an application to adult court for the reason that this would give defence counsel two kicks at the can. In other words, they would be able to cross-examine the witnesses once in the application hearing and then a second time at the trial. The crown at this point is somewhat concerned about whether or not that will impair the crown's capacity to get a conviction in young offender court.

Notwithstanding our efforts with the crown on behalf of the victim's family—the alleged offender here is a phase 2. It's a senior level young offender who was driving the car that killed my constituent. We've been advocating for that case to be transferred to adult court, where we feel that a more appropriate disposition could be made, and I'm doing that enthusiastically.

I'm reciting this to you because this is just one illustration of why even rapists, as young offenders, even the second levels, the phase 2s, the senior young offenders, the 16- and 17-year-olds, won't find themselves the subject of a section 16 application.

I don't criticize what you're doing with subsection (3) here, but I think you're making a mistake. This isn't a young offender-adult issue. We're concerned about dangerous sexual predators, who run the whole gamut here.

We referred very briefly and in an oblique way, with some of the submissions this morning, to some of the recent concerns about the capacity we have to treat or respond to young sexual offenders. You're aware of the controversy around that, aren't you? Our young offender system hasn't been very capable, in the context of this discussion here today, of dealing with sexual offenders in the young offender category—and we know they're there. I think you agree with me—I have a hard time distinguishing between a 17-year-old rapist and a 19-year-old rapist. One is as dangerous to the community and to women as the other.

I know what you're trying to do, but I'm telling you that there are any number of considerations and that's why I am not supportive of your bid to keep young offenders outside of the regime of registration. I'll put it to you this way: This is a specific section. If this section should offend the Young Offenders Act, then the section can be severed by an appellate-level court. Right? It won't be a matter of striking down Bill 31.

For Pete's sake, Mr Mazzilli, let's turn the fuel on here. If you have the concerns that I think you have, and I think all of us have, about the ongoing confusion about young offenders—and you know I'm not talking about the kid stealing the candy bar; I'm talking about the serious young offender, the one who poses a real danger to the community—let's raise the price of poker here. Let's exempt young offenders from the exemption. Let's exclude this reference to young offenders.

If we have contravened the Young Offenders Act—as in the past motion and our modest debate around that, you want to go a little bit into the den but you don't want to go all the way. What about young offenders who are tried after they have reached the age of majority—right, Chair?—people who commit a crime when they are a



young offender below the age of 18 but who aren't arrested until they reach the age of majority? It's not uncommon. That happens. You know it happens. This is what people are ticked off about. This is rotting people's socks out there. They're angry about it and they're frightened about it. There you've got a young offender who is an 18-, 19-, 20-, 21-year old being tried in young offender court, accorded the status of a young offender. Again, we're not talking about stealing candy bars from K mart. We're talking about serious offences here.

May I ask legislative counsel, and I don't want to put you on the spot here, in view of the fact that you removed from consideration of exemption those young offenders tried in adult court, who then are no longer entitled to the privacy accorded a young offender—am I correct that that is your distinction for the purpose of this amendment in terms of how you understand it?

**Ms Corbold:** I think not so much even the privacy issues but the records provisions. Again, I don't have the exact citations, but as you're aware, when a young offender has served their disposition, there are provisions in the Young Offenders Act which say that after a three- or five-year period, depending on whether it was summary or indictable, they are deemed not to have committed the offence. I think that's where it may be more problematic to lump that category of young offender into this obligation, because they would now be in a position where they were deemed not to have committed the offence but we're still obligating them to register. So just off the top, that seems more problematic to me than the privacy issue that you were focusing on.

**Mr Kormos:** Fair enough.

Let's look at what we're also doing. We're also including those people who are not guilty by virtue of their mental state, because this isn't a matter of punishment. It's a matter of wanting to identify—we've included that. We've already voted on that, haven't we? We've included people who have been found not guilty, not criminally responsible, not convicted, people who are deemed innocent. They are. They're not guilty, because their mental state was such that they didn't comprehend in any way, shape or form the act that they were performing. We still want to include them because we know this is what the police need if they're going to have this broad-based database on who constitutes a danger to the community.

We've got some very good legal counsel in the Ministry of the Attorney General. I don't pretend to be an expert in any of these areas of law by any stretch of the imagination, Mr Mazzilli, but I do know that we should be here giving effect to the best interests of our community. If that means taking on the Young Offenders Act and the feds, I say God bless. If I'm wrong in that regard I apologize. But once again, I have a hard time distinguishing between a 17-year-old who has viciously sexually assaulted somebody and a 19-year-old in terms of this registry and the importance that it has.

One of the problems with the Young Offenders Act, especially in Ontario, as you know, is that we're the only

province left that has the bifurcated system—did you know this, Chair?—where in phase 1 young offenders are administered by the Ministry of Community and Social Services and in phase 2 the 16- and 17-year-olds are administered by the Ministry of Correctional Services. We're the only province left that does that. We can't even track these people within the young offenders system because the one ministry doesn't communicate with the other.

Would it then be repugnant to the intent of this legislation, having heard what you said about the young offender interpretation of record and conviction? The bill wouldn't have to be amended in any other way, shape or form, because the minute that person fulfilled the time period, from the date of their young offender conviction to when they were effectively cleared of a record, they would have a record. After that time they could perhaps be exempt, just de facto exempt, from Bill 31, but they would be de facto subject to Bill 31 for at least as long as their conviction stood.

Are we talking about the most common situation? Of course not. I don't know whether I should have been happy or unhappy to hear about 1,560 sex offences a year out of an 11-million population. It should be less, but maybe we should be thankful it's not more. But should we be considering including young offenders on the understanding that when their convictions expire, so to speak, they will no longer be subject to the regime of Bill 31? I have concerns about your amendment, sir.

1520

**Mr Mazzilli:** Those concerns certainly have been raised by Mr Kormos. His amendments have been adopted in part and with some difficulties on the other part as far as interpretation. Might I add that the federal government, as we speak I believe, is reviewing the Young Offenders Act. We, as a government, continue to push for changes to the Young Offenders Act and if those changes will allow us to add young offenders in the regular meaning into our system we would certainly adopt that.

**Mr Kormos:** Mr Mazzilli, why are we doing this? Why are we even mentioning young offenders? Why are we even mentioning them? Why are they referred to in the bill at all? If you leave them out they either are or aren't required to report—right?—and there's no risk to Bill 31? You're not saying young offenders must report; you're saying offenders who have been convicted of any one of this class of sex offences, as defined in the act, have to report.

Far be it from me to decide whether YOs are subject to that. But if you don't mention young offenders at all you leave the door open. If you mention young offenders in any way, shape or form, especially if you say they're exempted—because by saying that they're exempted you're somehow implying that otherwise they would be required. Why are you mentioning them at all? Why isn't it just blank in that regard? Why is there any reference to YOs at all when you could be leaving the slate blank and

an appropriate decision will be made whether they have to or not?

If they don't have to, they don't have to, according to the Young Offenders Act. Nobody who is a young offender, who wouldn't have to, is going to be convicted of the mere provincial offence of failing to register. But if they do have to, they do, and by you including the exemption for young offenders they'd never have to.

This is so unfortunate, because you're closing the barn door after the horse has bolted. I hope I got that one right. But that's what you're doing here. You're precluding the possibility of including young offenders within this regime by exempting them. Why don't you just remain silent on the issue, delete subsection 8(2), remain silent on the issue of young offender, because they either do or they don't. But you have made it clear that they don't have to by virtue of your volition. Do you know what I'm saying? It's your decision by virtue of including it in the act that young offenders are exempt. Why don't you just leave it silent with respect to YOs?

**The Vice-Chair:** Thank you, Mr Kormos. Any further comments?

**Mr Bryant:** Let me just add that in the past the government has taken the position that if lawyers want to come out and try and take apart their bills, let them take their best shot. If the concern is truly a constitutional one, then I don't know why the government wouldn't just stick with that position and say, "Look, if in fact it's struck down, it's struck down." You're certainly not going to get anybody on this side of the House, as it were, saying, if you make that commitment, "What did you do that for?" We're advocating it.

I don't know why the government wouldn't at the very least leave the door open so that we in fact could include youth in this when that's really what we all want. Otherwise, my points have already been raised.

**The Vice-Chair:** Mr Mazzilli has moved an amendment to subsection 8(2).

**Mr Kormos:** A recorded vote, please.

**The Vice-Chair:** A recorded vote.

#### Ayes

Beaubien, Chudleigh, Elliott, Mazzilli.

#### Nays

Bryant, Kormos.

**The Vice-Chair:** The motion carries.

There is another amendment to subsection 8(2).

**Mr Kormos:** I move that subsection 8(2) of the bill be struck out.

Very briefly, you heard my comments with respect to the government amendment. I don't know why this bill is mentioning young offenders at all. They're either required to or they're not. But why are we saying that they don't have to, even if they're required to? Do you see what we're doing? We're prejudging this. We're saying,

"Even if young offenders otherwise would have to comply with the registration, we're exempting them."

That's why I voted against your motion, sir, and that's why I intend to vote for mine, because it strikes out subsection 8(2). It makes no mention of young offenders. It certainly doesn't exempt them from the requirements. They may not be required to by virtue of other legislation, but I won't be voting for legislation that exempts them. Do you hear what I'm saying? If some other level of government is going to do it by virtue of their legislation, fine and God bless; I'm not going to do it. I'm going to support my motion, of course. On a recorded vote, please.

**Mr Mazzilli:** I'm afraid we will not be supporting that. We clearly hear from Ontarians, police services and lawyers, in fact, that they want clear legislation that people understand, not some fuzzy legislation that somehow no one knows how to implement whereby you're specifically leaving something out and police services, the public and offenders are left to wonder whether they have to register or not. I would call for a recorded vote.

**Mr Kormos:** I already did.

**The Vice-Chair:** Mr Kormos moved that subsection 8(2) of the bill be struck out.

#### Ayes

Bryant, Kormos.

#### Nays

Beaubien, Chudleigh, Elliott, Mazzilli.

**The Vice-Chair:** The motion is lost.

Shall section 8, as amended, carry? Carried.

We move now to section 9 of the bill. I understand there is an amendment by the government.

**Mr Mazzilli:** I move that subsection 9(1) of the bill be amended by striking out "at a bureau, police station or detachment of the police force that provides police services in the area where he or she resides" in the third, fourth and fifth lines and substituting "at a designated bureau, police station or detachment of the police force that provides police services where he or she resides or at another place in the area where the police force provides police services designated by that police force."

**The Vice-Chair:** Any comments with respect to this amendment? Do you want to elaborate?

**Mr Kormos:** We understand the objective. It's consistent with other amendments in that same regard.

**The Vice-Chair:** Shall the motion carry? Carried. There is another amendment, Mr Kormos.

**Mr Kormos:** You'll note that as I read this I'm omitting the respective subsections because those subsections were created by earlier amendments that I moved that failed, but it doesn't change the impact or the function of this particular subsection by way of amendment.

I move that section 9 of the bill be amended by adding the following subsection:



“(4) The police force shall also delete every reference to and record of the offender from the copy of information submitted to the ministry that has been retained by the police force under section 4 or section 6,” instead of 4(2) or 6(4), because 4(2) and 6(4) don’t exist as they were dependent upon earlier amendments.

The rationale for this is that section 9 provides for an offender who submits a pardon to have that pardon sent on to the central registry so the registry deletes that person from their database as a registered sex offender. This requires the police station that similarly has that record in the first instance, or second or third, to delete it from their records, because if the person has received a pardon and they’re no longer a convicted person for the purpose of the registry, it’s my submission that they should no longer be a convicted person for the purpose of the police station that transmitted that information on to the central registry.

**The Vice-Chair:** Do we have unanimous consent to the technical change to the amendment?

**Mr Chudleigh:** Since the other amendments were defeated, doesn’t that become redundant?

**Mr Kormos:** No, only the subsections that I referred to become redundant. If you take a look at it, you’ll see it’s subsection 4 of section 9.

**The Vice-Chair:** We have consent. Proceed, Mr Kormos.

**Mr Kormos:** Let’s talk about pardons for a moment, Mr Mazzilli, please. Pardons are, in many respects, an artificiality. What they do is permit a convicted person to say, “I have never been convicted of a criminal offence.” A pardon doesn’t change the newspaper coverage of the event. A pardon doesn’t change the court records of the event. A pardon requires the sources of criminal record information to say that there’s no criminal record, but a pardon could be set aside under any number of circumstances, as I am advised, depending upon those particular circumstances.

1530

Here the impact of a pardon is to remove the offender from the sex offender registry. I don’t know what the stats are with respect to the frequency of pardons for sex offences. Although pardons occur routinely for old, long-standing stuff that’s left over, I’d like to think that pardons are few and far between for serious, violent crimes, because obviously in the reference to the record you want to maintain it for any number of reasons.

This goes back to the whole thing about conviction—I say this to the ministry counsel—or no conviction. Once you receive a pardon, of course you were still convicted, but the artificiality of “not convicted” is created. It’s sort of like the young offender. Everybody knows that he or she did what they said they had done or else they wouldn’t have been found guilty, but all of a sudden the record disappears.

I submit that giving effect to this will require not only the central registry to delete their reference to that person as an offender, but should a pardon be granted, it will require the police force that acquired that information to

similarly delete it from their records, because if you can have a pardon at one level, you could have a pardon at all levels.

**Mr Mazzilli:** We will not be supporting that motion. It is our position that what police services retain, as long as they retain it in a lawful manner, is not the intent of this legislation. This legislation, if we can refocus, is on a sex offender registry. What Mr Kormos is getting into is pardons and federal issues. He understands that federal legislation supersedes and may dictate what must be done in the case of a pardon. So we certainly do not need to duplicate that in Christopher’s Law.

**Mr Bryant:** I supported the amendment to subsection 4(2) because I wanted to give the police discretion as to how they deal with the information they have. I understand that we’re dealing with an anomaly, but in the interests of Liberal consistency I suppose I am compelled to stand aside from my colleague Mr Kormos on this point, because we had not heard from the police as to how useful that record may in fact be to them. In the absence of hearing anything to the contrary, I really don’t think it’s necessary to tie their hands with respect to this information in the rare instance of a pardon.

**Mr Kormos:** Mr Mazzilli, I am very focused on what we’re doing here today. I take in good humour your suggestion that perhaps I’ve lost focus. My friend, Mr Bryant, I understand Liberal consistency. I’ve been here for 13 years now.

Recorded vote, please.

**The Vice-Chair:** Mr Kormos has moved an amendment to subsection 9(4).

All those in favour?

**Ayes**

Kormos.

**Nays**

Beaubien, Bryant, Chudleigh, Elliott, Mazzilli.

**The Vice-Chair:** The motion has been lost.

Shall section 9, as amended, carry? Carried.

We’ll now move to section 10 of the bill. There is an amendment by the NDP caucus.

**Mr Kormos:** It has been withdrawn because this indeed has no validity as a result of the failure of the government to support my previous amendments. That’s number 14 in your package.

**The Vice-Chair:** That amendment has been withdrawn.

Amendment 15.

**Mr Mazzilli:** I move that subsection 10(2) of the bill be amended by striking out “or person authorized by” in the first and second lines.

**The Vice-Chair:** Any comments about that, Mr Mazzilli?

**Mr Mazzilli:** If I can just refer the explanation to the ministry lawyer, Mr Chair, this has to do with people authorized to manage the sex offender registry.

**Ms Corbold:** The amendment here is just to ensure that it's only police forces and employees of police forces that would have access to the sex offender registry.

**The Vice-Chair:** Any further comments about this amendment?

Shall this amendment carry? Carried.

Amendment 16.

**Mr Mazzilli:** I move that subsection 10(3) of the bill be struck out and the following substituted:

"Same

"(3) A police force, an employee of a police force and an employee of or person authorized by the ministry for the purposes of this section may disclose information contained in the sex offender registry to another police force in or outside Canada for the purposes of this section or for crime prevention or law enforcement purposes and the other police force may collect, retain and use the information for crime prevention or law enforcement purposes."

**The Vice-Chair:** Mr Mazzilli has moved an amendment to subsection 10(3). Any comments?

**Mr Kormos:** I am trying to follow the original bill compared to this. One of the things that hasn't been talked about here, Mr Mazzilli, is the privatization of services. I appreciate that earlier the last amendment was deleting "person authorized by" in the context of a police force. Here, I want to make it clear, you are retaining "person authorized by" with respect to the ministry.

Chair, if I could put that question through you to Mr Mazzilli, I understand and I didn't object to deleting "person authorized by" a police force, because you clearly wanted to avoid third-party, perhaps private sector. I want to understand, I want to hear from you, that here you're maintaining "person authorized by" the ministry. Is that correct?

**Mr Mazzilli:** That's correct. There was some concern, in its original form, that it was an authorized person of a police force or a police service, and this took us back to either a police officer or an employee of the police force. That is the amendment, but it retained the ministry component to it.

**Mr Kormos:** What I find strange about this, Chair, is that the government has narrowed down the people who can access it in terms of the police force, but doesn't narrow down who can access it, in terms of similar language, in terms of the ministry. It goes beyond an employee of the ministry to also a person authorized by the ministry.

I simply put this on the record now. This causes me some concern because of the phenomenon of privatization and because the government is being inconsistent in this instance by virtue of removing "person authorized by" a police force and retaining "person authorized by" when it comes to the ministry. This is inconsistent, and I suspect it should be a matter of some concern. You know my phobia. I have many of them, Mr Mazzilli. In this

instance, it's to the matter of privatization and private sector participation. My goodness, they could cause some real mischief in the context of this sex offender registry, couldn't they? Mischievous fingers could wreak some real havoc here.

1540

I admonish the government, please, you're going to be able to pass this motion, this amendment, because you've got four people and there's only one of Mr Bryant and only one of me. You're going to defeat us every time. But I admonish you, be very, very careful about private sector involvement in this, as has been demonstrated in so many previous experiences by this government.

**The Vice-Chair:** Any other comments?

Shall this motion carry? Carried.

**Mr Kormos:** Motion 17, withdrawn please.

**The Vice-Chair:** Motion 17 is withdrawn. Amendment 18?

**Mr Kormos:** Amendment 18, withdrawn please.

**The Vice-Chair:** Amendment 18 is withdrawn.

Shall section 10, as amended, carry? Carried.

We now have sections 11, 12 and 13 that have no amendments.

**Mr Kormos:** Section 11, please.

**The Vice-Chair:** Shall we proceed with them individually?

**Mr Kormos:** Please.

**The Vice-Chair:** All right. Any comments on section 11?

Shall section 11 carry? Carried.

Any comments on section 12?

**Mr Kormos:** This is—what do they call it?—the tort indemnification section. I think that's what they call it, don't they? I'm a fan of tort because I think tort holds people accountable. I understand—and I'm sure ministry counsel will tell me—that this is the same tort indemnification section that's been used around here for some good chunk of time now. You talk about this in the context of subsection (2), don't you, Ministry Counsel? I understand subsection (2) retains tort for malicious wrongdoing; old-fashioned, all out, break-their-ankles, knee-cap-them tort.

We're dealing here with some very sensitive stuff. For the life of me, I hope no innocent person is ever falsely identified on this sex offender registry or on any similar sort of thing, ever. I sincerely hope that. I've got to tell you that I've had some experience over the course of my career and my work in the constituency office with the family and children's services child abuse registry. I've had some experience with these kinds of registries. It's not as sophisticated as the registry proposed here, and certainly not as well regulated, because it's a pretty haphazard thing sometimes. I've been witness to some tragic consequences in the context of the family and children's services child abuse registry about mis-registered persons.

We all appear in support of the concept of the sex offender registry and its value as a tool to police; one tool and one small piece of a much larger puzzle but none-



theless something that can prove valuable and something that is the result of the coroner's inquest jury recommendations.

The utmost care has to be taken. I know you'll refer me to sections of the legislation that talk about the standards that are delegated to the Lieutenant Governor in Council by virtue of regulation, or to ministry directive, but I'm not a fan of this tort indemnification section. If the government hurts somebody by way of wrongdoing, and in this context it would probably be the misidentification of a person on the sex offender registry—a couple of contexts: (1) putting an innocent person on the registry or (2) an omission of another sort. Was it the Jane Doe case here in Toronto? Is that the reference? You know what we're contemplating here: The failure, for instance, to properly register a sex offender, wherein that failure to register could be linked to serious harm against some victim.

I want to put it very clearly on the record that I oppose these sorts of tort indemnifications. You and I don't have them in our personal lives, and we shouldn't. If we hurt somebody, we should pay for it. We should compensate them. I believe that. I similarly believe that governments, if they hurt somebody as a result of negligence, should be accountable too. I don't care which government it is. I don't care who's in power. So I want to make it clear that I'm opposed to this tort indemnification.

**The Vice-Chair:** Any further comments?

**Mr Bryant:** I have a question, if I could refer it to the ministry lawyer. These provisions are relatively boilerplate for this kind of act, is that right?

**Ms Corbold:** Yes. Legislative counsel might be able to help me out, but I think these are fairly standard provisions.

**Mr Bryant:** My understanding is that, notwithstanding this provision, courts will often disregard them.

**Ms Corbold:** Right.

**Mr Bryant:** In fact the crown can be held accountable. The target of this, among other things, presumably is to have the ability to dismiss frivolous lawsuits. We all get letters and actions in our constituency offices in which the Queen, the Prime Minister, the Premier and various others are named, and in part that's the purpose of immunizing the crown in these circumstances. Is that right?

**Ms Corbold:** It is, and why they leave in the malicious stuff.

**Mr Kormos:** You've engaged me now. It goes back, doesn't it, to Mitch Hepburn? Remember the anecdote about Mitch Hepburn, the Premier, where a hitchhiker was injured as a result of being a passenger in his vehicle and hence developed—I hope I've got this anecdote right—the standard of gross negligence—am I right, Mr DeFaria, on this?—as compared to mere negligence. Rumour has it that the Premier of the day was covering his own pocketbook so he raised the bar and created this new standard of gross negligence as compared to the traditional standard of mere negligence. That's civil law.

Mr DeFaria is an expert on that, along with a whole lot of other areas of law, so I appreciate his comments.

With respect, this does not deal with frivolous claims. It says that all that has to be established is good faith. That's a pretty low standard for a defence to negligence. It's the old "Hear no evil, see no evil, speak no evil."

This is not the time and place. I've spoken to this section on numerous other occasions with numerous other bills, trust me, so I'm not going to dwell on this in this committee. But with respect, Madam Counsel—and I know we'll have contrary views on this—this isn't just boilerplate to prevent frivolous claims. What it does is create a novel defence to a tort claim of mere good faith. It wouldn't work if I ran over you in my car. I couldn't say, "Good faith." It wouldn't work if you fell down the front steps of my old house down in Welland. I couldn't say, "Oh, I was acting in good faith." It shouldn't work for the government either. I believe that.

**The Vice-Chair:** Any other comments?

Shall section 12 carry?

**Mr Kormos:** Don't you say, "All in favour?" You did that when I had my motions. Just go, "All in favour?"

**The Vice-Chair:** All right. All in favour of section 12? Opposed? Carried.

Shall section 13 carry? Carried.

We are now on section 14. There is an amendment from the government.

**Mr Mazzilli:** I move that clause 14(c) of the bill be amended by adding "or in an area in Ontario" at the end. 1550

**The Vice-Chair:** Do you want to make any comments about the amendment?

**Mr Mazzilli:** Perhaps I could refer that to the ministry lawyer for explanation.

**Ms Corbold:** The way it was originally drafted, it was to assist us in deeming who was resident in Ontario versus another province. The addition will allow some guidance, if necessary, with respect to whether an offender lives, say, in the jurisdiction of the Toronto Police Service versus the Durham Police Service. So it's just giving us a bit more ability to provide clarification if necessary.

**The Vice-Chair:** Any other comments about this amendment?

**Mr Kormos:** I understand this section as well. It's sort of the wrap-up of all the loose ends and delegating everything that isn't included in the bill to the Lieutenant Governor in Council by way of regulation. I want to say again, very briefly, not a very good way to do business; in particular, your amendment, for instance, determining what "residency" constitutes, as compared to using traditional or let's say common-law definitions of residence, as compared to using residency as I suppose the Income Tax Act uses the definition of residency and so on.

All I'm telling you, and this is free advice and I suppose it's only worth as much as you're paying for it, Mr Mazzilli, is that when you leave things loose and open like this, you want to invite litigation, you're going to get it. Legislative regulation is bad on its best day, but dealing with some very fundamental things like that and

making them only a part of the regulatory process—because we all know regulations don't come to the Legislature. They come to a leg-and-regs committee which is basically punishment for people from the respective caucuses; that's why you're on the leg-and-regs committee. I'm surprised I'm not on it on behalf of my caucus. The reason I'm not is because Ms Lankin is on it; she's the Chair. But again, it's not a good way to do business; residency stuff especially; you know darned well that's going to be one of the defences raised in a charge laid under this bill: "I wasn't a resident." And your definition of residency was non-published, other than in the Gazette, because it isn't part of the statute, right? I wish you'd included residency as part of the statute even if you incorporated the definition of residency from some other long-held reference like the Income Tax Act, speaking of the federal budget. If you had incorporated it, that way it would be sort of common knowledge, but again you've got the majority.

**The Vice-Chair:** Any other comments?

Shall the motion carry? Carried.

Shall section 14, as amended, carry? Carried.

Section 15 has no amendments.

Shall section 15 carry? Carried.

Shall section 16, the short title—Mr Kormos?

**Mr Kormos:** Speaking to section 16, I want to thank you, Chair, for your supervision of this meeting today. Let me also thank the people who made submissions.

I most, and I don't think anybody's not ad idem with me in this regard, want to thank the Stephensons. They've stuck with this issue for over a decade now, with a great deal of courage and tenacity. You see, courage alone won't do it unless you have the tenacity as well—where I come from we call it just plain guts—to move ahead.

I sincerely hope that this bill, with its regime of registration, receives appropriate resources to ensure that it operates as it was intended to both by the coroner's jury—and I told you I read that inquest report so many times now because there are so many things in there we should be reading and addressing in our minds and in our legislative efforts. So I hope it fulfills the intention of that coroner's jury inquest.

To do that, it has to be adequately resourced. Please, we heard only peripheral commentary today from some of the policing community about the need for, admittedly, federal resources for CPIC. And it would be so easy again—because I can criticize both the province and the feds—to whipsaw this and blame other levels of government.

But it's hard to point the finger and lay blame, for this province to do that when it itself may not have been meeting all of its financial obligations. Is this exercise going to be cheap once again? No, we know that. Is it going to be effective? We certainly hope so but it can only be as effective as the success of the exercise in terms of developing the registry and in making sure that police have recourse to it, have access to it in a speedy and, more importantly, accurate manner.

I don't look forward to having to read ever about the registry being utilized, because I'd like to hope that there's never a circumstance, a crisis wherein it has to be resourced or accessed. But I know that's naive on my part, and I'm many things but rarely naive. Could I wish away sexual assault on kids and adults? If only I could, if only any of us could.

But that brings as well the whole area of discussion, very briefly, of the need to not just rely upon Christopher's Law but on a broader-based program. It includes, and yes, I'll tout my own bill again, the bill that the government allowed to remain alive over the break regarding access by volunteer agencies to criminal records for prospective volunteers, and a dozen and more other things that again are right there in the coroner's jury inquest report.

They cost money. Like I said earlier today and like I've said before, as a taxpayer I am prepared to invest that kind of money in protecting our children, our sisters, our wives, our mothers, any number of people in our community from the very vicious sort of violent assaults that sexual predators of all sorts impose on them.

I am going to be supporting the bill and its reference back to the Legislature. We will be voting on it in third reading, I assume promptly, when we get back to the House. I expect that it'll be some time before proclamation because it'll take time for the appropriate agency—we understand the OPP—to set up the central registry. We'll be monitoring that closely.

Trust me, Mr Mazzilli, it's going to be one of our constituency offices that gets the call the first time there is a problem or an error made in misreporting or underreporting or overreporting—you know what I'm talking about—in making some sort of follow-up. You and I have both seen these kinds of efforts. We've seen them succeed and we've also seen them fail. You're not with the Ministry of the Attorney General, but if you were I'd remind you of the family support plan office. I'm serious. In the parallels, that's a much bigger operation, I hope, than this is, but again, those sorts of failures when you're dealing with something like this—is your government going to take credit for this? By all means, please do. I have no qualms whatsoever in saying the government did a good thing with Bill 31.

But let's also be careful not to be overly partisan about this. This exercise around Bill 31 has been a convenient one to throw flack at the failure of one level of government to do something, at the failure perhaps of previous governments to do something. It's been an opportunity for some of the parties to express very partisan interests about adequacy of funding and jurisdictional roles in terms of the constitutional function of the federal government versus the provincial government.

I just hope this will not be the only element of the Christopher Stephenson coroner's inquest jury recommendations that you and your government—you've got three and a half more years, give or take, to do it. Any number of things can be done. You can count on our support if the right things are being done. I'm confident



that you can count on the community support. But I would urge you to please focus on some of those things. Let's get them moving along.

Once again, I want to thank the people who participated in this modest hearing, and especially thank the Stephensons. I appreciate them being here today.

**The Vice-Chair:** Any further comments?

**Mr Bryant:** Also speaking to section 16, I would echo the thanks to those who came and made submissions before this committee. I would also echo the comment with respect to the non-partisan support for this bill, or tripartisan support, I suppose. I hope that spirit of tripartisan support continues.

The first bill after Bill 31, which was introduced the same day as Bill 31, was Bill 32, a private member's bill introduced by Rick Bartolucci. It was An Act to amend the Highway Traffic Act to require a driver's licence to be suspended if a motor vehicle is used when purchasing sexual services from a child. Another prong in the ongoing attack against sexual offences.

I think we all need to rededicate ourselves here today, as I'm sure we have, to fulfilling that ongoing attack against sexual offences. All the amendments that I supported or opposed today were in the spirit of doing just that. This is a good bill. This is a bill that I support and the official opposition supports.

Lastly, I can't pretend for a moment to imagine what is going on in the minds of the Stephensons right now. I

can only say that I'm sure it's a bittersweet moment, and it's a moment in which I, for one, have rededicated myself to this cause and appreciate the courage and tenacity which you have demonstrated for all of us here. Thank you all for being here.

**Mr Mazzilli:** I'd like to thank Mr and Mrs Stephenson for being here and for waiting 10 years for different governments to deal with this tragic situation. The Stephenson family certainly knows that all three parties in the House supported this bill and that there was going to be debate on different issues, but all three parties supported the legislation in full.

However, we're still going to continue pushing the federal government to establish a national sex registry. We believe it's the proper thing to do and we will continue working in that regard.

**The Vice-Chair:** Shall section 16, the short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 31, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

I thank the members of the public who made presentations and the Stephenson family for your attendance here. Thank you very much.

The committee is adjourned.

*The committee adjourned at 1604.*

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### **Also taking part / Autres participants et participantes**

Mr Mike Colle (Eglinton-Lawrence L)

Ms Marnie Corbold, counsel, legal services branch, Ministry of the Solicitor General

### **Clerk / Greffière**

Ms Susan Sourial

### **Staff / Personnel**

Ms Susan Klein, legislative counsel

Mr Avrum Fenson, research officer, Research and Information Services



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## Standing committee on Justice and Social Policy

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1st session, 37th Parliament | 1<sup>re</sup> session, 37<sup>e</sup> législature

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Monday 10 April 2000

**Election of Chair**  
**Appointment of subcommittee**

### STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

#### **Chair / Présidente**

Ms Marilyn Mushinski (Scarborough Centre / -Centre PC)

#### **Vice-Chair / Vice-Président**

Mr Carl DeFaria (Mississauga East / -Est PC)

Mr Marcel Beaubien (Lambton-Kent-Middlesex PC)

Mr Michael Bryant (St Paul's L)

Mr Carl DeFaria (Mississauga East / -Est PC)

Mrs Brenda Elliott (Guelph-Wellington PC)

Mr Garry J. Guzzo (Ottawa West-Nepean / Ottawa-Ouest-Nepean PC)

Mr Peter Kormos (Niagara Centre / -Centre ND)

Mrs Lyn McLeod (Thunder Bay-Atikokan L)

Ms Marilyn Mushinski (Scarborough Centre / -Centre PC)

#### **Substitutions / Membres remplaçants**

Mr R. Gary Stewart (Peterborough PC)

#### **Clerk / Greffière**

Ms Susan Sourial

#### **Staff / Personnel**

Ms Elaine Campbell, research officer, Research and Information Services

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*The committee met at 1530 in room 151.*

### ELECTION OF CHAIR

**The Vice-Chair (Mr Carl DeFaria):** I'd like to call the meeting to order.

**Mr Peter Kormos (Niagara Centre):** On a point of order, Chair: I understand there's a TV show, Who Wants to be a Millionaire. This is the "Who Wants to Make \$10,000 a Year More" committee.





**The Vice-Chair:** That's not a point of order.

**Mr Kormos:** I'm sorry.

**The Vice-Chair:** If we may proceed, owing to a vacancy in the position of Chair of this committee, I will be presiding over the election of the new Chair. I'd like to start by asking--

**Mr Kormos:** I will nominate--yes, Chair?

**The Vice-Chair:** Can you just give me--

**Mr Kormos:** Well, you're asking for nominations. I'm ready to offer one up.

**The Vice-Chair:** I'd like to ask for nominations for the position. Mr Kormos, proceed.

**Mr Kormos:** These are, of course, as we know, democratic processes. It was reformed to the rules that permitted committees to elect their Chairs. I nominate Michael Bryant.

**The Vice-Chair:** Will Mr Bryant accept nomination?

**Mr Michael Bryant (St Paul's):** I am flattered, but I'm afraid I want to have some standing on this committee and in fact I regretfully decline. I have a nomination as well.

**The Vice-Chair:** Mr Bryant has a nomination.

**Mr Bryant:** I nominate Peter Kormos to be the Chair of this justice committee.

**The Vice-Chair:** Will you accept nomination, Mr Kormos?

**Mr Kormos:** Unlike one Tory backbencher, I will not hide behind some excuse about lack of funds. I will rather acknowledge that the likelihood of being elected by a majority of Conservatives is unlikely. I decline.

**The Vice-Chair:** Any further nominations? Mr Beaubien?

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Mr Chair, it's my pleasure to nominate Marilyn Mushinski as Chair of the standing committee on justice and social policy.

**The Vice-Chair:** Mr Beaubien nominates Ms Mushinski. Will you accept nomination, Ms Mushinski?

**Ms Marilyn Mushinski (Scarborough Centre):** I accept, Mr Chair.

**The Vice-Chair:** Are there any further nominations? No other nominations, I declare Ms Mushinski elected as Chair of the committee.

**The Chair (Ms Marilyn Mushinski):** First of all, let me start off by thanking the committee. Having chaired the committee on general government for the last six months, which I enjoyed thoroughly, by the way, I look forward to working with each and every one of you. I appreciate your support. Other business?

#### APPOINTMENT OF SUBCOMMITTEE

**Mr Bryant:** Madam Chair, I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee is composed of the following members: the Chair of the justice committee, in addition to Mrs Elliott, Mrs McLeod, and Mr Kormos; and that











any member may designate a substitute member on the subcommittee who is of the same recognized party.

**The Chair:** All in favour? That carries. Any other business?

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** May we seek to inquire as to whether we may expect any business before either the committee or the subcommittee in the next little while, Madam Chair?

**The Chair:** You may certainly do that, Mrs McLeod.

**Clerk of the Committee (Ms Susan Sourial):** There are no new bills in front of the committee at the moment, though there are a couple of bills that have been referred from the past, Bill 9 and Bill 10.

**The Chair:** If you would allow me to perhaps meet with the clerk, we'll pull together an agenda and certainly we will be letting members of the subcommittee know as soon as possible when we'll be meeting.

**Mrs McLeod:** May I just then further ask, since there is no new legislation before the committee which would obviously take priority over any other committee business, is the committee open to receiving resolutions for discussion at committee?

**The Chair:** Certainly.

**Mrs McLeod:** May we propose resolutions? How do you wish to have those brought forward? Would you like those brought forward to a subcommittee to schedule business for the resolutions?

**The Chair:** If you will allow me, in terms of procedure, Mrs McLeod, you are aware of section 124, which states:

"(a) Once in each session, for consideration in that session, each permanent member of a committee set out in standing order 106(a) or (b) may propose that the committee study and report on a matter or matters relating to the mandate, management, organization or operation of the ministries and offices which are assigned to the committee, as well as the agencies, boards and commissions reporting to such ministries and offices.

"(b) Notice of a motion by a member under this standing order shall be filed with the clerk of the committee not less than 24 hours before the member intends to move it in a meeting of the committee."

Do you want me to continue reading?

**Mrs McLeod:** That's fine. Then I'm going to assume that we can file such notices 24 hours prior to the call of the next meeting or at any time before the call of the next meeting.

**The Chair:** Yes. "The clerk of the committee shall distribute a copy of the motion to the members as soon as it is received. Whenever a motion under this standing order is being considered in a committee, discussion of the motion shall not exceed 30 minutes, at the expiry of which the Chair shall put every question necessary to dispose of the motion and any amendments thereto."

It goes on to talk about adoption, limitation of consideration, and report to the House.

**Mrs McLeod:** Thank you very much, Madam Chair. I'll act accordingly.

**The Chair:** Any other business? May I have a motion to adjourn?

**Mr Beaubien:** So moved.

**The Chair:** Marcel moves adjournment. The meeting is adjourned.





*The committee adjourned at 1539.*

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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 15 May 2000

# Journal des débats (Hansard)

Lundi 15 mai 2000

**Standing committee on  
justice and social policy**

Subcommittee report

Direct Democracy through  
Municipal Referendums Act, 2000

**Comité permanent de la  
justice et des affaires sociales**

Rapport du sous-comité

Loi de 2000 sur la démocratie  
directe par voie de  
référendum municipal

Chair: Marilyn Mushinski  
Clerk: Susan Sourial

Présidente : Marilyn Mushinski  
Greffière : Susan Sourial





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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 15 May 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 15 mai 2000

*The committee met at 1004 in room 151.*

## SUBCOMMITTEE REPORT

**The Chair (Ms Marilyn Mushinski):** I think we'll call the meeting to order. Good morning, ladies and gentlemen. This is a standing committee on justice and social policy meeting to consider Bill 62, An Act to enact, amend and repeal various Acts in order to encourage direct democracy through municipal referendums, to provide additional tools to assist restructuring municipalities and to deal with other municipal matters.

The first thing we need to do is consider the subcommittee report on committee business. Mr Bisson, I believe you would—

**Mr Gilles Bisson (Timmins-James Bay):** Just for those on the subcommittee, you would know that we were trying to get some presenters in from Moosonee to present on the section of the act that creates the municipality of Moosonee. I'm not going to go through the details, but it's very difficult to fly people out of Moosonee. It turned out that there was only one seat available next Tuesday to get somebody out of Moosonee. I think we managed to get one person out, who is from the Moosonee Development Area Board. The Moosonee Cree Alliance, which is the second part of that presenting group, would like to get hooked by telephone, if possible, later on this afternoon. So I'd like to make an addition to the subcommittee report, that we try to work that out this afternoon after question period. Once we're finished with routine proceedings, we can do a 10-minute hookup by telephone so that the Moosonee Cree Alliance from Moosonee is able to patch in.

**The Chair:** Does that meet with the committee's approval? We'll try to set something up between—

**Mr Bisson:** We'll work it out with the clerk then.

**The Chair:** As close to 3:30 as possible.

**Mr Bisson:** OK.

**Mr Carl DeFaria (Mississauga East):** Madam Chair, I was approached by a couple of people who indicated they would like to make presentations. They are not on the list, but they are here. They were trying last week to get on the list to make representations. I would ask the Chair to consider that and maybe allow the two people who are here to make their presentations at the end of the list.

**The Chair:** Has the committee read the recommendations of the subcommittee? It should be read into the record.

**Mr Brian Coburn (Carleton-Gloucester):** I'd like to move the recommendations of the subcommittee, Madam Chair.

**Mr Bisson:** If you're suggesting that with the addition of the other two presenters, it's OK by us.

**The Chair:** All right, and with the addition of the conference call this morning.

**Mr Bisson:** Were there other presenters? It was just the two?

**Mr DeFaria:** Yes.

**Mr Bisson:** There are a number of people who want to present. I wonder if maybe they can make themselves known to the clerk and we try to accommodate as best we can.

**The Chair:** We do have a fairly full schedule this morning. I think what we will do is try to accommodate everyone who's already listed, and then we'll see if we have the time to accommodate other speakers after that.

**Mr Bisson:** If we have to go through lunch a little bit in order to accommodate, I'd be prepared. That would be good.

**The Chair:** What is the wish of the committee? Do you want to go a little beyond the time if there are some other presenters?

**Mr Bisson:** We can have some sandwiches sent up for the presenters, because they'll need energy.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Madam Chair, during the discussion between the members of the subcommittee, did you set some clear guidelines as to when they could present? Usually that's the criterion you set. I'm willing to live by whatever the subcommittee has set, but if we're going to change the rules, I think it's going to make it somewhat unwieldy.

**The Chair:** If you look at the subcommittee recommendations that have been read into the record, they clearly stipulate that amendments be tabled with the clerk by 12 noon today; that the clerk be authorized, in consultation with the Chair and subcommittee, to schedule witnesses and that the time for public hearings be divided equally among all witnesses; and that each party submit a list of witnesses to the committee clerk by 1 pm on Friday, May 12.

I would hope that anyone present this morning will be guided by that. If witnesses do not wish to take the full



10 minutes, we may be able to accommodate more witnesses. But as of now, we're already at 10 past 10, and our first witness is Michael Walker, with the city of Toronto. We'll see how things go.

**Mr Mike Colle (Eglinton-Lawrence):** Madame Chair, if I could interrupt: We do have that hour from 3:30 to 4:30. I think we agreed that in case we couldn't get everybody in this morning, we'd have the possibility of maybe adding a couple of witnesses there. I think that was the agreement of the committee.

1010

**Mr Bisson:** Yes, it was discussed at the subcommittee.

**Mr Colle:** We might not have to go into the lunch, which some people are eager to do.

**The Chair:** Except, as you're aware, Mr Colle, we do have to proceed with clause-by-clause by 4:30, and we're already attempting to schedule the Moosonee conference call, and a five-minute presentation by each party has been scheduled between that hour, so we are getting down to the fine wire. Rather than delay any further with discussions around this, let's see how it goes this morning and the committee can decide when we get close to 12 o'clock how we should proceed.

So we'll hear from the first witness—

*Interjection.*

**The Chair:** Oh, I thought that had been moved, sorry.

**Mr Coburn:** Shall I read these into the record?

**The Chair:** OK.

**Mr Coburn:** The subcommittee on committee business recommends the following with respect to Bill 62:

1. That the committee meet for the purpose of public hearings in Toronto on Monday, May 15, 2000, from 10:00 am to 12 noon.
2. That each party submit a list of witnesses to the committee clerk by 1:00 pm on Friday, May 12, 2000.
3. That the time for public hearings be divided equally among all the witnesses.
4. That each caucus be allotted five minutes for opening remarks before the beginning of clause-by-clause study.
5. That the legislative research officer prepare information on the criteria for citizen-based referendums and on voter turnout at municipal elections in Ontario for the last two elections.
6. That the clerk be authorized, in consultation with the Chair and the subcommittee as necessary, to schedule witnesses from the lists of names submitted by the three parties.
7. That, if possible, amendments be tabled with the clerk of the committee by 12 noon, Monday, May 15, 2000.
8. That the committee continue meeting on Monday May 15, 2000, starting at 3:30 pm.

And the recent one, if we've all agreed to the amendment presented by Mr Bisson: The Moosonee Cree Alliance be allowed to input by telephone.

**The Chair:** All in favour?

**Mr Garry J. Guzzo (Ottawa West-Nepean):** One question on number 5: Has that been complied with? Do we have that?

**The Chair:** Yes, it has. It should be in each of your—there.

**Mr Guzzo:** Very well.

**Mr Bisson:** As long as we don't preclude ourselves from trying to accommodate the extra presenters, I'm in favour of the subcommittee report.

**The Chair:** I think that's understood, Mr Bisson.

All in favour? Carried.

We'll move into hearing from witnesses.

## DIRECT DEMOCRACY THROUGH MUNICIPAL REFERENDUMS ACT, 2000

### LOI DE 2000 SUR LA DÉMOCRATIE DIRECTE PAR VOIE DE RÉFÉRENDUM MUNICIPAL

Consideration of Bill 62, An Act to enact, amend and repeal various Acts in order to encourage direct democracy through municipal referendums, to provide additional tools to assist restructuring municipalities and to deal with other municipal matters / *Projet de loi 62, Loi édictant, modifiant et abrogeant diverses lois en vue d'encourager la démocratie directe au moyen de référendums municipaux, de fournir des outils supplémentaires pour aider les municipalités restructurées et de traiter d'autres questions municipales.*

### MICHAEL WALKER

**The Chair:** Mr Walker, city of Toronto, councillor, ward 22, welcome. You have heard that each witness has a maximum of 10 minutes.

**Mr Michael Walker:** Thank you very much. This is short notice.

I'm here to speak against this piece of legislation because I think it's the contrary to democratic; I think it's as anti-democratic as heck. I think it's really dictatorial, and I think it has intentionally established impossible to meet thresholds so that there won't be any ability to have questions placed on municipal ballots here in the city of Toronto or in any other municipality that wishes to place a ballot question at municipal election time or in time in between.

The example in the city of Toronto is the nuclear-free zone one from 1982, which I think is when that was put on, but we've had many ballot questions since then. I would question, is the minister going to deem a question on casinos or video lottery terminals or charity gaming casinos as not a municipal question? We had a referendum on that in the last municipal election and there were certainly noises coming from here that we were exceeding our jurisdiction. In my opinion, we were not exceeding it in any way, shape or form but my concern is the arbitrariness of the minister pronouncing, granting a dispensation, using the royal "we": "We have decided

that is democratic and you're allowed to have it." What are you afraid of in letting a municipality make the decision on what belongs before it or what doesn't; whether you, the politicians of the day here at Queen's Park, deem it is reasonable or within municipal jurisdiction?

An awful lot of issues impact the lives of citizens in cities. Cities, in legislation, have no rights. They have absolutely no rights. The real economic power is in cities, and it's quite clear that we haven't been listened to in the past by other levels of government. Why can't we hear from the people on issues that we raise before them? We either have status as a council and elected officials and are accountable for our actions before the electorate or we're not.

My other concern, going on from that, is that the 50% turnout will be very likely impossible. Fifty percent voting in favour of that is definitely reasonable. If there is any referendum question, it's usually 50% or even 60%. We have local referenda on traffic controls, called speed humps, and we've set a threshold of 60% to ensure that there is not just 50% support but there is clear-cut majority support for that. I don't have a problem with that, but I sure as heck do with the 50% turnout. Most provincial governments today, including yours, do not get 50% of the vote, and the voter turnout in a lot of elections doesn't get to the 50% range. The last presidential election was less than 50% voter turnout in the United States, and that's for a presidential election. I just again say that it's an impossible threshold. It precludes us asking reasonable questions.

They've never been binding, but council takes them as direction. We have in the past and we've endorsed them, most particularly the one on casinos and video lottery terminals and charity gaming casinos.

If we're proceeding down this avenue, why are you not addressing the issue of the voters' list? The voters' list is a piece of garbage in terms of its accuracy, its currency. It disenfranchises huge numbers of citizens. This is an opportunity, when we have ridings that replicate federal and provincial ridings, to demand that each of the levels of government commit financially, as well as from a staff point of view, to produce a voters' list and that it is one of the things you check off when you move from one location to another. Or when you move from another province to this province, you fill out a voters' list to ensure that people are enfranchised right up front.

In the city of Toronto in the last two municipal elections, we sent tens of thousands of people we re-registered up here to Queen's Park and they disappeared. They disappeared into a black hole and never showed up on any other voters' list. Mouthing these platitudes and not carrying through with real action has just got to stop.

Lastly, I think the concern is this is paving the way here to try and bind municipal governments to not go back to their constituents if there's a need for an increase in taxes, whether it's a dedicated tax increase to buy more police officers, to buy more fire officers or to

eliminate user fees from old people and poor people, and you can be assured there are plenty of those in the city of Toronto. The report that was produced in the *Star* last month shows that the poverty rate here is twice what it is in the 905 area. It costs money, and if isn't going to be provincial money, it's going to have to be municipal money to ensure that those people are adequately housed, get adequate education and are brought into the mainstream so they can be fully productive in the first generation and start contributing taxes to the system. That requires us to have the flexibility to decide when we have to levy a tax or not.

Lastly, the actions of this government in reducing the representation locally has been totally skewed here in the city of Toronto. Under your present legislation, which, if it were applied province-wide, there is one representative for about every 52,000 electors out there—citizens, excuse me. You've just done your Waterloo-Kitchener two-tiered government, which you've formalized, and you have one representative for every 8,500. It really makes a mockery of the process of true democracy. In my opinion, this piece of legislation is really a mockery of true democracy and it's going to finally catch you. In a democratic system you can try to legislate away democratic rights, but it's going to come back and get you. Your majority rests right here in the city of Toronto. The eight representatives that you presently have here in the city of Toronto are the difference between a majority government and a minority government and you can't govern in a minority situation.

On behalf of tenants you've been hostile to in the last three years—52% of those voters have never focused on an issue, and this issue is housing. It's their homes that you've put at risk and you haven't listened to them. Most particularly, the Chair hasn't listened to them. You'd better start listening to those people out there and be accountable. If there's a reason for local government, we're accountable. We have to answer every three years, not at the pleasure of up to five years. Every three years we have to go back and explain ourselves. If that's the case and there's a reason for local government, you should leave it alone.

1020

**The Chair:** Thank you, Mr Walker. We have about two minutes for questions.

**Mr Colle:** Thank you for coming, Councillor Walker.

I guess the question I have for you is the reference you made to the provincial government trying to basically dictate municipal policy. Are you aware of the fact that under this act there's only one person who shall decide whether a question is of provincial interest? It says here in part III, section 8.1, "Despite rule 1, it shall not concern a matter which has been prescribed by the minister as a matter of provincial interest." In other words, the minister is the only one who can decide whether the vote on video lottery terminals or casinos or whatever issue is of provincial interest. Obviously you disagree with that. What would be a way of maybe clarifying that or at least getting the municipality to come



forward with some questions where they could decide whether it's a municipal interest?

**Mr Walker:** With respect, Mr Colle, I think we should decide, period. I think the provision is anti-democratic just by its very nature. Soon I'm going to start saluting by saying, "Sieg heil." Where do we get off in a democratic system where, as I said, we start having politicians second-guessing municipalities in this whole province of nearly 11 million people, maybe more, deciding, "We shall bless you and give you a dispensation that says feed him or that proposal to the lions"? I say it makes a mockery of this piece of legislation. You and I know it's exactly the opposite. It's anti-democratic. It's intended to micromanage and control.

**The Chair:** Thank you, Mr Walker. That's 10 minutes.

#### ADAM CHAMBERLAIN

**The Chair:** We'll go to the next witness, Power Budd: Adam Chamberlain and Rob Power.

**Mr Adam Chamberlain:** Good morning, Madam Chair and members of the committee. My name is Adam Chamberlain. I am a lawyer with the Toronto law firm of Power Budd.

**The Chair:** OK, I wasn't sure if that was your name. I'm sorry about that.

**Mr Chamberlain:** There is some confusion sometimes.

Thank you for the opportunity to provide submissions to the standing committee today as it's considering Bill 62. I've provided a handout which is about four pages long. I just realized it doesn't have my name on it, but in any event you can follow along if you have it.

Today I wish to discuss issues related to the referendum provisions contained in part III of the bill.

This bill has the potential to have far-reaching effects on major, large infrastructure projects such as large landfills, large transportation systems, electrical generation, distribution systems and related high-profile infrastructure in Ontario. Investments in such projects may all become subject to a political process under this bill.

The introduction of binding referenda in Ontario through Bill 62 is laudable. It is possible, however, that in preparing the bill, inadvertent negative effects on the development of large infrastructure initiatives in Ontario may have been overlooked.

It is not unlikely that electors in many communities could have concerns with undertakings such as highway projects, the creation or alteration of correctional facilities, the location of large electrical generation, transmission or distribution facilities or the construction or expansion of waste management facilities. That might result in local opposition to such development.

However, most large infrastructure projects are governed by legislation such as the Environmental Assessment Act or the Environmental Protection Act, which require a proponent to seek significant public input. Such legislation also imposes significant procedural require-

ments with which any proponent, either public or private, must comply. For this reason, undertakings such as those subject either to approvals under the Environmental Protection Act or to the application of the Environmental Assessment Act should not be the subject matter of binding referenda put to the electors in a municipality.

The risk is that proponents of large private infrastructure undertakings may respond to this uncertainty by reconsidering the investment required for these projects. If that is the case, not only will the undertakings be threatened themselves, but so will benefits that are related to them such as jobs, services and tax revenue.

Bill 62 provides the public with influence on whether or not a particular position should be taken by a municipality. Where undertakings or classes of undertakings are subject to environmental assessment or other provincial approvals require public input, a referendum would only serve to duplicate that public input outside a controlled, highly technical and regulated process.

On the issues of environmental protection in particular, it's conceivable that results of a binding referendum could be contrary to the interests of the environment. If this were the case, the municipality would have no alternative but to take action to implement the results of the referendum despite potential harm to the environment. This would fetter the discretion of bodies with special technical expertise, such as the Environmental Assessment Board.

There are some checks and balances provided in Bill 62. As it's currently drafted, the bill allows the minister to exempt matters of provincial concern from the referendum process. However, this could be awkward for a minister and does not, we suggest, provide an alternative that avoids the pitfalls of significant political pressures, especially in a time leading up to an election, in the way that exempting certain infrastructure projects through legislation does.

There's been some discussion of the appeal process contained in the bill, and Bill 62 provides the minister with the ability to appeal to the chief election officer of the province of Ontario any referendum question that is not appropriate, on the grounds that the question is not clear, concise and neutral or that it cannot be answered either yes or no. These are very narrow grounds, which do not replace the need to exempt these environmental projects from the legislative scheme.

I note as an aside that there is no recourse by way of appeal to the other rules that are subject to the questions. Rules 3 and 4 are the rules that I've discussed above—that is, clear, concise and neutral and they have to be yes or no. But the other two rules that govern these questions—the first is that they shall concern a matter within the jurisdiction of the municipality; and the second one, which has been brought up by the previous speaker and been subject of a question, is the one that says the question shall not concern a matter that has been prescribed by the minister to be a matter of provincial interest—those two grounds are not subject to any appeal procedure.



In conclusion, although Bill 62 provides a welcome binding referendum process for the province of Ontario, it is important that certain issues, such as environmental matters and large infrastructure projects, be exempted as they are governed by existing legislation and regulations which already protect the public interest.

I suggest that the following possible amendment to Bill 62 would address these concerns. I've already read from the four rules that govern these questions and I would suggest that an additional rule be inserted between rules 2 and 3, which would result in 3 and 4 being re-numbered. I suggest that the following would be an appropriate amendment and it would read as such:

"It"—that is, the question—"shall not concern matters related to undertakings to which the Environmental Assessment Act applies or for which approvals under the Environmental Protection Act are required."

Should the committee, however, not support the proposition of an amendment for Bill 62 as I've discussed, it should strongly encourage the government to act quickly to create regulations that will protect matters such as those related to private undertakings that are subject to the Environmental Assessment Act or require approvals under the Environmental Protection Act.

Regulations similar to the proposed amendment to Bill 62 that I've just listed would ensure that large infrastructure projects such as large landfills, large transportation systems, and electrical generation and distribution systems are not exposed to undue uncertainty. While such regulations would not provide as much certainty as legislative amendments, they could, if carefully worded and promptly passed, minimize the risk to development of important infrastructure in Ontario.

Madam Chair, those are my comments. If you have any questions, I'm happy to field them.

1030

**The Chair:** We have about two minutes for questions.

**Mr Bisson:** I hear the argument you're making, and I have a fair amount of sympathy for what you're saying. I guess my simple question is: If, for whatever reason, the government decides not to accept the amendments—as you know, this bill is time allocated, and it's going to be out of committee this afternoon—

**Mr Chamberlain:** I know.

**Mr Bisson:** —should the bill go along, flawed as it is?

**Mr Chamberlain:** I don't agree with the previous speaker with respect to the general flaw. I support the general proposition of the introduction of binding referenda.

Simply put, I think the bill should proceed as it is, if there's not going to be an amendment, but I think it would be extremely important that the minister, and the committee as well, consider what areas ought to be deemed matters of provincial interest. I think that is the essential question. It would be unfortunate, for the various reasons I've listed, if some areas were subject to question—

**Mr Bisson:** If you're going to have referendum legislation, wouldn't you want to make sure that at least

the referendum legislation works and, if it is flawed, to try and fix it?

My problem with this process is that I think all of us can get into a general debate around referendum legislation about where it is appropriate. But as you point out, if you have referendum legislation that's flawed, there's a real danger that you can end up doing more harm to the outcome than not having any at all.

**Mr Chamberlain:** I don't think the legislation is fundamentally flawed. I think it needs to be fine-tuned, I think the fine-tuning I have listed would be appropriate. Without that, I think the next step, perhaps not as favourable and not as desirable, is to ensure that the minister provides designations, subject to rule 2 that I've listed, where appropriate.

**The Chair:** Thank you, Mr Chamberlain. That's about the 10 minutes. We'll go to Pam McConnell, the next witness.

## CITY OF TORONTO

**Ms Pam McConnell:** Thank you, Madam Chair.

My name is Councillor Pam McConnell. I'm here on behalf of my council, the city of Toronto and also to speak on behalf of Mayor Lastman. I'm the chair of the Toronto community council.

I'm here to speak to you about Bill 62, the act to amend various acts relating to the reconstructed municipalities and to municipalities generally, and to enact the Town of Moosonee Act, 2000. Even the name of this bill seems exceedingly scattered. There is little coherence to the hodgepodge of regulations you have thrown together here. The clauses govern roads, liquor, mental illness, police, zoos, the OMB and taxes, all tossed into the first few paragraphs of your bill. Almost 30 pieces of legislation are amended, without any one coherent objective identified.

But closer reading, to me, shows some clear messages. The overwhelming message in Bill 62 is an abiding distrust of your municipalities and their councils.

I imagine that the people of Hamilton-Wentworth, Ottawa-Carleton and the Sudbury region will let you know how they feel about your decisions to reorganize local councils against their local wishes. Toronto has already been through that amalgamation. We know about the horrific costs involved in those reorganizations, the millions of dollars of downloading hidden in the process and the stark loss of service inherent in coping with that imposition. But I'm not here to cover that ground again. You know it well.

I came today to talk to you about one aspect of the bill: part III. The new policy on referenda is like the rest of the bill, clearly a hybrid. Half of the bill reads like a doctrine, and the other half seems like hastily added second thoughts. I'll just give a couple of examples of that.

The bill says a referendum is binding. Its command must be followed within six months, and no change is permissible for three years—no ifs, ands or buts—unless



you look down the page to the clauses that let the city overturn a Yes vote if they don't like the zoning or if there's a public meeting and the opinions shift.

The bill says the public deserves notice. The question must be in its final form six months before the election. That means that in the city of Toronto we cannot put a question on at this time. But if you read further, you discover that in fact the minister can actually change the question or any other rule or whatever he wants, and doesn't seem to be bound by any part of the act.

The bill is hasty. It is inconsistent, it is abrupt and it is self-contradictory, and that's very easy to see when you read the bill. What is less obvious about the bill is that it does have one consistent message: The bill is written to say no to municipalities. It says no in some pretty simple ways. It says, no, municipalities can't hold referenda that the minister doesn't want held, no matter how much the public wants to be heard on that particular topic. It says, no, municipalities can't hold referenda asking the questions they want to ask if the minister doesn't want it, and he has the last say.

The bill also says no in some more complicated ways. The way the rules are written, a No vote is in fact more binding than a Yes vote. A council that is told to take action can in fact back out, citing zoning issues or outcomes of public meetings. But a council that is told to take no action has no options. They are bound to take no action for three years.

It's always easier to get people to say no than it is to get them to say yes. Bill 62 takes that tilted playing field and jacks it up another 45 degrees. However, the most important way the bill says no is in subsection 8.2(1). That clause says, in essence, that if you don't have a 50% turnout, there's no binding referendum. In municipal elections, a 50% turnout simply never happens. Most municipal elections draw a 30% turnout. Asking for a 50% turnout is like asking every ballplayer to bat 500. If you want to set a tough standard, fine, but don't set a standard that has never been met and then call it realistic.

What's the point? If the minister wants to ban binding referenda, which he essentially has done, why pass a bill purporting to create them? It's hard not to see a reason looming on the horizon. Bill 62 makes it impossible to have a binding referendum. There has already been talk of requiring a binding referendum to raise taxes or to run a debt. Bill 62 rules make it impossible to meet that requirement, if it should come to pass. That would permanently prevent cities from raising taxes or running debts.

If there is any doubt that these issues are lurking in the background, just take another look at the bill. There is a specifically stated obligation to inform the public of the tax impact of a decision on a question. There is no such requirement regarding social, environmental or any other impacts.

Part III of this bill isn't about direct democracy, and it isn't about fairness. It is about stopping municipal councils from raising the taxes required to meet the needs of their cities.

The city of Toronto doesn't like higher taxes. In fact, we've frozen taxes for the last three years on our own. But we do expect to be treated like a responsible, democratically elected government that can handle its own purse strings and make its own choices. This bill could make it impossible for Toronto to borrow money for the Olympics, for a stadium or for a better housing policy. Cities could be prevented from raising taxes to improve our parks or to expand our daycare. If cities want to do anything they aren't doing today, or to invest more in anything they are already doing, they will have to go, hat in hand, to the province for a grant. That's the one consistent theme in Bill 62. Mike Harris is the boss.

#### 1040

"You want to hold a referendum? Too bad. We've got rule after rule that says you can't, you won't and, if you do, it simply won't count."

"You've got a local government that isn't working? Too bad. We've got rules that say your council's dead and you're merging with the guy next door."

"Your citizens elected you to fix their streets and care for their kids? Too bad. We have rules that say you can't levy taxes or run a debt."

The bottom line is this: Just because municipal councils are democratically elected doesn't mean they should get to make important decisions. I think that's a shame.

Local governments deal with people's everyday problems. We pick up the garbage, we care for the parks, we run the libraries, we manage the roads, we house the homeless and we keep your cities liveable, neighbourhood by neighbourhood. It's time that Queen's Park showed some respect for that work. Stop trying to micro-manage municipalities and let us do our job.

Municipalities have invited reform. We have encouraged changes to the Municipal Act. But we have told the province time and time again, let's do it right. Let's sit down and work out a coherent strategy for reform.

Bill 62 is more ad hoc change without a coherent plan and without the respect democratically elected municipal governments deserve.

I implore the committee not to add injury to insult. Please do not report this bill to the House. Reject part III outright. Listen to the other deputants who have come here today—with not much time, I must say, and not much notice—and show them and their concerns the respect that municipal issues so badly need from your government today.

**Mr Coburn:** Councillor McConnell, you made reference that you wouldn't be able to put a question on the ballot this fall. There is provision in this legislation where the minister would entertain questions on the ballot this fall and vary the time requirements. Were you not aware of that?

**Ms McConnell:** Yes, I am aware of this particular one. However, before we'd even phrased the question, we've been told by the minister, through the media, that the question we were debating putting on is not an acceptable question and not in the province's interest. So



even before we got to debate it, discuss it or word it, we were rejected.

**Mr Coburn:** A supplementary to that. I don't know if the question was submitted to the minister, or if you're just taking his comments and interpreting them.

**Ms McConnell:** The minister very clearly said, before the discussion went to council, that this was not a matter he would allow as a referendum item.

**Mr Bisson:** Which part of no don't you understand?

**The Chair:** OK, that's enough.

**Mr Guzzo:** He's been known to change his mind.

**The Chair:** Thank you, Ms McConnell.

**Ms McConnell:** Thank you very much. It's nice to see you again.

#### JOHN SEWELL

**The Chair:** Mr Sewell.

**Mr John Sewell:** I have a copy of my brief here.

**The Chair:** Thank you.

**Mr Sewell:** I want to begin with a few words about the democratic tradition in Canada.

Since the establishment of responsible democratic government in Upper Canada in the late 1840s, it has consisted of the following steps:

First, the public is informed of government proposals in a full and forthright manner by the government and its institutions;

Secondly, public debate on these proposals is encouraged by all elected members and by the government, adequate time is permitted between the proposals being made public and their consideration by elected members, and elected members engage in this public debate;

Thirdly, the public is encouraged to present their opinions on these matters to elected members through the appropriate committees, and elected members listen closely to the presentations made; and

Fourthly, elected members then engage in their own debate, taking care to respond to public concerns and, at the conclusion of that debate, consider alternatives and amendments and make a final decision on these issues.

I might point out that this is the way democracy has been practised in Canada for most of the last 150 years. It has been successful because it has been shown to be the best way to find the best ideas to help society function better. It rejects the notion that those elected, that is, the government, know best or that they have any special magic about solutions to complex problems, or that they should be left on their own to do what they want between elections.

These processes also ensure that there is, between elections, some control over those elected by the device best called "embarrassment." Those elected to public office do not wish to look foolish in the face of reasonable arguments. The process of public information, public debate, public presentations, and response to that debate and those presentations enables all reasonable ideas to emerge. In that process, elected members are

dissuaded from supporting something that is foolish and instead act reasonably.

This government has been breaching those fundamental rules of democracy in Canada for the last four years. This government makes it very difficult for the public to learn of proposed legislation, even pushing through laws which give ministers the power to make laws on their own in private. Some sections of Bill 62, which I urge you to read, try to amend those provisions which allow the minister to make his own laws in private without any notice at all.

This government also rushes legislation through so quickly the public has no time to debate it. Bill 62 is a perfect example of this problem. The government has lumped together so many unrelated matters that none can be fairly debated on their own, and there's no time for public debate in any case. Then this government prevents members of the public from making their views known by time allocation motions, which prevent public hearings. The hearing on this bill is unusual in that it has been called. I might say that on the 11 bills you passed in the last term, a hearing was held on only one, and that was for two hours. In fact, the normal process is you don't have public hearings; you prevent them by time allocation. But in this case we've got a two-hour span and I think you'll realize that's ridiculously brief. Notification to speakers for the hearing this morning was given in the last business hour of Friday. I think that's so late as to show contempt for the public hearing process. That's shocking.

Public hearings in Ontario have always consisted of ads being put in papers and committees travelling around to listen to people. What you do is phone people up at 10 to 4 on Friday, saying, "Be here if you want to be heard on Monday morning." That's shocking.

Then, providing individuals a mere 10 minutes to discuss a 63-page bill which amends 28 different statutes is very demeaning. It's also extremely demeaning to find that the only person who's been involved in the cabinet discussion of this matter related to this bill isn't here—the minister. He won't even listen to what people have to say about his legislation. That's a bit demeaning, isn't it? He doesn't like the public hearing process. He's assigned you folks to hear on his behalf and not given any time for you to get back to him.

I believe this provincial government has lost the right to call itself democratic. It has done everything in its power to sweep away the democratic process practised in Ontario since the 1840s. I urge you to look at those four points. That's the way democracy has worked, except for the last four years, when you've cut out notice to the public, you've cut out public hearings.

Only the municipal level of government continues our democratic traditions in this province. Municipal governments proudly distribute staff reports and proposed recommendations to the public. Councils encourage public participation and schedule meetings both at city hall and in local neighbourhoods to encourage people to consider issues, form their own opinions, and then voice those



opinions. Municipalities allow adequate time for public debate before decisions are made. Councillors attend community meetings and engage in debate, learning first-hand how people feel about things. Council meetings, unlike cabinet meetings, are held in public; in fact, they are usually televised and the public can watch as the debate progresses.

This model of democracy is to be admired, yet this government wants to destroy local government and the latest attack is Bill 62. This government wants to take important decisions out of the framework of public information, public debate, public presentations, and decision-making by informed elected officials. This is wrong. Leave local government alone.

1050

The provisions of Bill 62 reek of manipulation. Voters' lists, a provincial responsibility as you've already heard, are notoriously inaccurate. When I ran in the last provincial election, I might say 40% of the people who lived in the riding and were voters were not on the voters' list; 40% of the names on the voters' list had moved or died. They're the kinds of voters' lists that you're responsible for and that in fact would be working under these regulations.

As you've already heard, it's virtually impossible for 50% of the names on the voters' list to get out to vote. There are few instances where 50% of the names on the voters' list have ever voted. I believe that 50% requirement will be used by the minister to shackle local government. Bill 62 will not be used to enhance the democratic tradition in Ontario but to bring municipalities to their financial knees, to wreck them, to ensure they are no longer able to function in an open, democratic fashion.

If you take the amendment that's suggested by Mr Chamberlain, your friend, there is a whole bunch of other issues that you'd also get out in the way of local councils that they could never express their opinion on: anything related to environmental issues or roads or infrastructure. Bad; that's all bad.

Part III of this bill is repressive legislation that is meant to be repressive and harmful. Don't pass it.

In closing, I'd like to bring to your attention the legal context in which binding referendums, as proposed in Bill 62, should be discussed. In 1916 the Manitoba Legislature attempted to pass a bill authorizing binding referendums, taking the power out of the hands of the Legislative Assembly, as you've tried to do with the Taxpayer Protection Act, and replacing it with your notion of direct democracy which is in Bill 62. This was ruled by the Privy Council as beyond the power of the Legislative Assembly. In that case, the Manitoba Court of Appeal ruled that the problem with the law was that it attempted to vest powers belonging to the Legislature in a different body and the court decided, to use the words of Peter Hogg in his book *Constitutional Law of Canada*, that "primary law-making authority be exercised only by the organs that [the Constitution] establishes and recognizes."

In local government, the law states that the municipal council, after full, fair and open debate, makes the decision. Bill 62 tries to fetter that decision-making ability of council and lodge it somewhere else. I believe such an assignment of powers is unconstitutional, as it is indeed for the Taxpayer Protection Act. It would be interesting to see your legal advice to the contrary.

Stop this damaging attack on local government. Start following the precepts of the democratic process that we know in Ontario.

**The Chair:** Thank you, Mr Sewell. There's about one minute left for questions.

**Mr Colle:** Thank you, Mr Sewell. There are so many things that you brought up, but my question is, do you realize that only about 5% of the municipal elections held in the province last year reached the 50% threshold? In other words, 95% of the municipal elections held did not reach the 50% threshold.

**Mr Sewell:** I believe this is deliberate on the part of the minister, that he's going to bring in a new law that will say certain things have to have the approval of a referendum, such as a tax increase, so he's deliberately set it at 50%. This is designed to make sure nothing happens, to take the power out of local councils, to trash local councils as best that they could. If that wasn't the case, I think we could have a good, long public discussion on this legislation. There's no hurry about it, we've got lots of time, but it's being rushed through in the usual fashion the government's gotten used to.

I believe that the 50% is set deliberately to make sure that municipal councils are going to be prevented from doing certain things. It's a deliberate figure. You can tinker with it all you want. The minister is trying to hurt municipalities.

**The Chair:** Thank you, Mr Sewell.

**Mr Sewell:** Madam Chair, you should know that. You used to be on local council. What happened to your respect for it?

**The Chair:** Thank you, Mr Sewell.

**Mr Sewell:** Something happened in the head. Is that what happens when you get up here?

**The Chair:** Thank you, Mr Sewell. We've heard from you.

**Mr Sewell:** It's an interesting one. One should reply to things like that.

#### TOWNSHIP OF RAMARA

**The Chair:** Can I hear from Dr Garry, please?

**Dr Tom Garry:** Thank you, Madam Chair. It's a pleasure for me to be here this morning. I'm Dr Tom Garry. I'm the mayor of the municipality of Ramara in the county of Simcoe.

Listening to earlier discussions, I was actually smiling to myself and saying, "You know, people are concerned with casinos and rasinos and video lottery terminals, etc." My municipality surrounds the Casinorama and I want to compliment the government for having the foresight and fortitude to give the First Nations a license. We don't



allow VLTs in our township. We were petitioned by our area taxpayers and local groups not to allow VLTs and we agreed with that. I think that is democracy in our township, so it's very fair.

I've been in the local political scene since 1976. It's a long, long time. I've gone from councillor in two years to become a reeve of a municipality, went through an amalgamation of the county of Simcoe, and I'm now mayor of the municipality of Ramara. We have a voter turnout in our township of 52%. There is a reason for that, and I will come to that question in a moment.

I'm very pleased to be able to appear before the standing committee on justice and social policy today to discuss Bill 62, Direct Democracy through Municipal Referendums Act. The bill gives voters a greater say in local issues. For the results to be binding, as I've heard many people saying here, there must be a majority of voter turnout of 50% plus one.

Traditionally, as you know, in municipal elections, the voter turnout is 22% to 28%, but we had a choice in the last few elections, and especially the last one. We spearheaded a movement, through candidates as well, to hold elections by mail-in. That moved us away from the traditional ballot box and voting by mail-in produced for us, instead of the traditional 22% to 28%, a 52% turnout at the ballot box, or those who mailed in their votes. That's a tremendous improvement and I feel that in my municipality, where more than 50% of the residential taxpayers are away from those cottages, because they're on Lake Simcoe and Lake Couchiching and the great rivers in the area, that gave them their democratic right to cast a ballot and produce a turnout like that.

The legislation provides a framework for municipal questions and improves direct democracy. It gives them that right. They come back in the summer and they say, "Dr Garry, you didn't do this and you have VLTs." No, I don't, because there is a casino there.

It empowers the local citizens with the opportunity to participate in the local decision-making process on issues that are so important that council feels it necessary to have their direct input. Again, issues that are very important to people, as I indicated, are casinos and rasinos, environmentally-related issues—and we certainly have had our share in the township—ecology. All our lakes and rivers, very important.

In addition, if more people were casting ballots on issues that concerned their community and neighbourhood, voter turnout would increase for municipal elections. Now, not necessarily by just stating that. I think that municipal governments must be committed to greater voter turnout versus the traditional polling at a ballot box. A mail-in vote or the telephone way of voting will certainly improve your turnout at the polls. This strengthens local democracy.

1100

While there are many rules surrounding a binding referendum, they ensure that the referendum process is credible. Under the proposed legislation, questions must deal with matters within the jurisdiction of the municip-

ality. The questions must be phrased to result in a yes or no answer, and the question must be clear and concise. The language must be unbiased and the requirements will eliminate voter confusion. Voters know that when they mark their ballot, they are voting on an issue that will be accepted or rejected. Council will then be able to immediately implement the results instead of debating what they actually meant.

On that issue, I feel that the 180 days is too long and the definition of "binding" should be within 120 days. On the registration, the campaign period, I'm recommending to you that that minimum be 42 days and not 60 days.

The bill also states that there is a requirement for full and accurate disclosure to electors of the impacts of implementing and not approving proposals, including financial impacts. This allows everyone, the voters and council, to have a clear understanding of what they are voting on. It is important for voters to be able to make an informed decision based on all facts.

I am aware that the bill also proposes to have campaign funding rules in place for the referendum process, such as maximum campaign contributions, registration and campaigns and financial disclosure.

Another recommendation I have is that campaign contributions under the Municipal Elections Act should have the same deductible requirements as for provincial and federal elections and would be an incentive for real campaigns. I mean the real thing out there—you know, get out there and get up on the box.

I support all of these proposals. As a candidate, I must follow campaign funding rules and, for the referendum process to be fair, it should do the same. There are binding rules that should be the same as for the provincial and federal politicians.

As I mentioned before, a campaign period should be a minimum of 42 days. Sixty days is too long. They lose track of the issues.

I appreciate being able to speak to the committee today on the importance of direct democracy through municipal referenda and I would be happy to answer any questions from the committee.

**The Chair:** Thank you, Dr Garry. We have about two minutes for questions. The government side, any questions?

**Mr Coburn:** I do have one. In terms of voter turnout, you mentioned 52%, Dr Garry. Has that been consistent over the last three or four elections?

**Dr Garry:** That's only in the last municipal election, where we elected to have a mail-in vote in our municipality. It's one of the few municipalities in Ontario that has held a mail-in vote. We felt that it would increase the voter turnout. It did. It produced the results desired. I feel that local politicians—because we set the rules for how an election will be cast, whether it's by traditional ballot, by mail in, or by phone—have options.

We have opted to go with mail-in voting. There was an awful lot of controversy about that, of which you no doubt are aware, of which the government is aware, but it has proven to be successful. We've gone back to it this



year. We have indicated to our returning officer, who is our clerk, to go ahead with the bylaw to produce the mail-in vote this fall.

**Mr Colle:** Could you clarify for us what your turnout was before you had this mail-in system?

**Dr Garry:** Between 22% and 28%.

**Mr Colle:** How do you verify that the person who mailed the ballot is that person?

**Dr Garry:** The person is mailed a ballot. Every elector is mailed a ballot, regardless of who they are and where they live in Ontario.

**Mr Colle:** How do you know it's that person who voted?

**Dr Garry:** I hope it is, and we hope they do.

**Mr Colle:** I can see if Toronto tried that what would happen.

**Mr Guzzo:** Mel can solve the problem, don't worry.

**Mr Colle:** Ottawa should mail their ballots in too. It would be interesting too to see that.

**Dr Garry:** It certainly eases the facility for the taxpayer, the residential taxpayer. You don't have to go to a box that day; you can mail your ballot in, and you have a lot of time to do it.

**Mr Colle:** But how do you verify it? That's what I would like to know.

**The Chair:** I think Dr Garry's 10 minutes are up, so we'll go to the next witness.

#### POLICE ASSOCIATION OF ONTARIO

**The Chair:** We have two representatives for the Police Association of Ontario this morning: Mr Thornley and Mr Bailey. I understand you are speaking as one this morning. You have 10 minutes.

**Mr Ted Thornley:** There will be one speaker, Madam Chair, and I may rely on some of my colleagues to assist if there are technical questions that need to be answered.

Good morning, Madam Chair and members. Thank you for the opportunity to appear before the committee today.

My name is Ted Thornley and I am the president of the Police Association of Ontario. I am also the president of the Waterloo Regional Police Association. The Police Association of Ontario represents approximately 13,000 municipal police personnel across this province.

With me today, seated to my immediate left, is the administrator of the Police Association of Ontario, Mr Paul Bailey. Also in attendance with me today is the chairman of the Police Association of Ontario, Mr Bruce Miller, who is a 22-year veteran front-line police officer with the London Police Service and an Ontario medal of bravery recipient. Additionally, we have in attendance with us our legal counsel, Mr Ian Roland with the firm of Gowling, Strathy, who may be able to assist us should there be any technical questions that answers are sought for. Finally, there are representatives from other police associations across Ontario in the room, including two of the three affected associations. The three affected associations are the Sudbury Regional Police Association; the

Ottawa-Carleton Regional Police Association, and representing that organization here is the president, Geoff Broadfoot; and the Hamilton-Wentworth Regional Police Association, and representing that organization is the administrator, Doug Allan.

I realize my time is limited and I will try and leave time for questions. I will endeavour only to cover off the main points, as you all have copies of our brief.

Bill 25 made no sense to both the policing community and the citizens that it serves. It impacts on public and police officer safety and demoralizes the brave men and women who police our communities. We had hoped that the introduction of Bill 62 would have addressed our concerns, but that was not the case. The policing sector should not have been included in the bill. The three police services had already undergone regionalization. Ottawa-Carleton, by way of example, regionalized in 1995 through another legislative process in the form of Bill 144. All three services will continue to police the same area that they policed prior to December 24, 1999. Their responsibilities are unchanged, unlike other labour sectors which did not service the entire former municipality. There will be no transition of policing in these three municipalities.

#### 1110

Bill 25 impacts on both public and police officer safety at a time when the citizens of Ontario are demanding safer communities. Bill 25 created a whole new level of bureaucratic review and red tape. Section 4(1)(d) of the bill requires the police services board to obtain transition board approval, for example, to hire a new employee, promote or change the job classification of an existing employee or appoint a person to a position.

The bill has affected the efficiencies of the police services to respond to operational needs. Approval must be gained for transfers to address operational matters. Hamilton-Wentworth is an excellent case in point. The hiring of five new front-line officers was cancelled, as the transition board could not approve their hiring in time for them to meet the deadline to go to the Ontario Police College. This was in spite of the fact that these positions had been previously budgeted for and approved by the police services board. Day-to-day operation was also affected, and the creation of a specialized squad to fight property crime had to be delayed pending approval by the transition board. In Ottawa-Carleton, the head of the human resources section resigned last week and the transition board will not allow the service to fill the position on a permanent basis. Policing has to be able to react immediately to preserve community safety and the transition boards have created a barrier of red tape.

Support for community safety must also involve support for the men and women tasked with ensuring it. Collective bargaining has been frozen for the current year. Our members expect to be treated fairly, and that includes fair and comparable wage and benefits. They cannot understand why these are frozen when their services have long since been regionalized and while their policing duties remain unchanged. "Why," they ask, "are



we being lumped in with other groups when we have already been through the process?"

In conclusion, I would ask the committee members to remove the policing sector in its entirety from the effects of Bill 25 for the following reasons.

First, the three services, unlike other sectors, have already gone through the process of regionalization and are taking on no new responsibilities.

Second, community safety is being adversely affected with the addition of yet another bureaucratic level in the form of the transition boards. Police services must be able to react instantly in community safety issues.

Third, police personnel face an increasingly dangerous and difficult environment and need the support of the government to ensure safe communities.

Fourth, and finally, Bill 25 makes no sense for policing and community safety.

Thank you, Madam Chair and members of the committee, for this opportunity to speak with you. We would be pleased now to entertain any questions you might have.

**The Chair:** Thank you, Mr Thornley. That's the briefest submission we've had this morning, so there are about five minutes left for questions.

**Mr Bisson:** Thank you for your presentation. I guess I can give you the experience from someone who's undergone police restructuring, not as a result so much of amalgamation but as a result of trying to make a bigger police force cover more communities. In the end, your assumptions are right. What we found in the case of the Ontario Provincial Police, when they moved from the structure they had to a different structure where they're in clusters, was that we ended up in smaller communities across northern Ontario with fewer people in detachments to cover fairly large patrol areas. The result has been far less in the way of community policing than what existed before this whole structure started. So I have some sympathy for what you're talking about.

I'm wondering if you can be a little bit more specific when you talk about the worry that you have as police officers in regard to this bill as a result of the restructuring. Is it because you're worried it's going to become a larger organization that somehow it's going to become less responsive?

**Mr Thornley:** No, not so much, sir. It's for the police service involved in the community that is restructuring to continue to conduct business in the fashion that it has conducted business all along. A police service is the sort of organization that needs to respond quickly to operational efficiencies and needs. Frankly, what that has done is create a further level of bureaucracy in addressing those sorts of areas, whether it's the formation of specialized squads or groups or the hiring. Everyone is aware of the CPP initiative that was announced by our government, wherein \$30 million a year would be plugged into the new hiring initiatives. All those initiatives were intended to put more officers on the street. Frankly, during transition those officers cannot be hired without another level of approval within the organization. An

example in point is the Hamilton situation where officers were released because of the inability to get the approval at the Ontario—

**Mr Bisson:** Could you give a little bit more detail on that?

**Mr Thornley:** I would like to do that, if I could call upon Doug Allan, who is the administrator of that organization, just to give some details.

**Mr Bisson:** Could you please, just a bit of information and say who you are as you come up for the committee.

**Mr Doug Allan:** My name is Doug Allan. I'm the administrator of the Hamilton-Wentworth Police Service. That's a very good question. What had happened was, due to retirements etc, we started hiring and part of the hiring was five officers. When those five officers were hired, they were all signed up ready to go and then it was stopped because of the transitional board. In the process of hiring, the chief approves the hirings, brings it to the police service board, gets approval and then at the police service board it was stopped because it had to go to the transition. A simple day-to-day operation to put police officers on the street is going through another layer of red tape. In the meantime, these were highly qualified officers—many police forces across the province are presently hiring because of the number of retirements and the incentive to put officers on the street—and they went to other forces because they weren't prepared to wait for the transition board. So the hiring process had to start over again.

**Mr Bisson:** Is that the same case in Norfolk, Sudbury and Ottawa? Are they running into the same kind of barriers?

**Mr Allan:** We're running across it in the day-to-day operations. The chief operational changes like our BEAR squad, which is an acronym for break and enter—

**Mr Bisson:** You can't hunt bears in northern Ontario any more.

**Mr Allan:** No, no, it's a different bear. Because the break and enters were so high in our region, we wanted to get the squad out on the street. It took officers being put up into a higher responsibility area, which is a detective. A detective is paid a little bit extra for the extra responsibility. However, it was stopped because of the transition board. So we ran into another layer of red tape. The group finally went out on the street, but there was a two- to three-week delay before we could get it out there when we found that we needed to react right away because of the high number of break and enters in the Hamilton-Wentworth area.

**The Chair:** One final question, Mr Bisson.

**Mr Bisson:** How many police forces are going to be amalgamated within the areas that are being affected by this legislation in the end? I guess the next part of the question is, is a larger police force necessarily better in the sense of administration?

**Mr Thornley:** There will be no police forces affected by the amalgamation, to the best of my knowledge. They've already been amalgamated through regionalization.



**Mr Bisson:** In Norfolk as well?

**Interjection:** Norfolk's OPP.

**Mr Bisson:** OK. That's why.

**The Chair:** Thank you, gentlemen, for coming this morning.

#### MUNICIPALITY OF CLARINGTON

**The Chair:** The next speaker will be Mr Troy Young, representing the Newcastle Ratepayers Association.

**Mr Troy Young:** No, I'm not representing the Newcastle Ratepayers Association.

**The Chair:** Sorry.

**Mr Young:** I'm here on behalf of the municipality of Clarington.

**The Chair:** And are you a councillor?

**Mr Young:** Yes, I am.

**The Chair:** OK.

**Mr Young:** Thank you for the opportunity to address this committee today with regard to this very important and controversial piece of legislation. Before I go too far, I must inform you that I am presently a councillor in the municipality of Clarington and a candidate for mayor in this November's municipal election. I state this as I obviously have some bias towards Bill 62.

I will focus the majority of my remarks to part III of the bill, that portion that refers to amendments to the Municipal Elections Act, 1996. Specifically, I will be concentrating on the part of the legislation dealing with the question of referenda.

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Do we need binding legislation on the forming of questions to be included in a referendum? Yes, we do. Too many times in the past, governments—federal, provincial and municipal—due to vague and unclear questions, have misused this important tool. The vote on the Charlottetown accord or the most recent referendum vote in the province of Quebec regarding sovereignty stand as examples. Providing a means to strengthen these questions is important to prevent the misuse of this valuable tool. Otherwise, a referendum question can often be a waste of time and money.

This proposed legislation would give the minister the ability to decide the appropriateness of the question. The proposed legislation will restrict said questions to matters within the jurisdiction of the municipality and shall not concern a matter which has been prescribed as a matter of provincial interest. Should not municipalities, however, have the right to propose questions of local relevance, if not necessarily within their jurisdiction? As it stands, amalgamation is not within the jurisdiction of the municipal level of government, but it is most definitely within the realm of relevance. If two or more municipalities wanted to willingly amalgamate and pose this question to their residents, would they be allowed? Under this proposed legislation they would not.

Will this proposed legislation be restricted to a willing municipality bringing forth a bylaw to pose a question or will the provincial government be able to enforce the

question against a municipality's will? Will every potential change in the revenue stream of the municipality be subject to referenda? I say revenue stream, and not taxes because some would argue that user fees and other charges are merely taxes by another name. If in the normal course of managing the day-to-day affairs of our municipalities we need to increase our revenues, we will find ourselves mired in a bureaucratic nightmare, requiring costly referenda just to make ends meet. The cost of the referendum would have to be included in the budget before the increase could take effect; if voted against, the referendum cost would have to be borne by the municipality at the expense of a service provided by the municipality.

What seems to be forgotten is that municipal councils are democratically elected, as are the members of the provincial Legislature. We are held accountable to the people we serve. Every three years, on the second Monday in November, we have to face the people of our community and ask for their continued support of us, their municipally elected officials. If in fact they feel we have not been performing in accordance with their wishes, every opportunity is given to those electors to replace us with people who will. That is democracy; tying the hands of democratically elected people is not.

It is admirable that you want to increase the electors' participation in the government process. If the province is truly interested in doing so, they should introduce legislation that holds their government to the same binding referenda that they are proposing for municipalities. What is good for the goose is good for the gander. If elector participation is the intent behind this, the province should also be willing for this proposed legislation to apply to them as well.

I do not share the concern of many for the required voter turnout. In Clarington, we are going with a vote-by-mail process in this upcoming election, much like Ramara has. The earlier speaker said their turnout was 52%. Actually, four municipalities in Durham are going this route. Not only is it saving our taxpayers over \$25,000, but it should increase the number of people who take part. I am confident that we will have over 50% turnout for this election. Regardless, even if the 50% turnout was not reached, while not binding, a referendum question could still be used to help steer the ship.

Prior to wrapping up my comments on referenda, I would like to express my concerns about the time allocation. I understand that the desire for the time allocation motion was to hurry this bill along so that municipalities could prepare questions for this upcoming municipal election. However, the bill states that a bylaw to submit a referendum question must be passed at least 180 days before voting day. There is also a requirement for a minimum 10-day notification period prior to the passing of said bylaw. That's 190 days in total. Today we are 182 days away from the next municipal election. There is no reason then that this very important piece of legislation needs to be rushed through with limited



debate. Allow this bill its due course and provide the necessary debate.

In summary, I think the clarification on referenda, both on the questions themselves and in the ability to make said questions binding, are steps in the right direction. My concern is that referenda will remain as tools to be used by municipalities, not against them. Referenda must only be introduced by willing municipalities, not used to limit their day-to-day functions by the province. Allow us to pose questions of local relevance to our residents, ie, amalgamations. Give municipalities the peace of mind they seek; include in Bill 62 the assurances that such referenda will be at the discretion of the municipalities to invoke.

I thank you for the opportunity to speak my thoughts on this matter today.

Just before I wrap up, there were a number of questions here directed to the mayor of Ramara with regard to the vote-by-mail and how it works with regard to voter fraud. We have already addressed this in our municipality because that was a concern we had too. What happens, if I may—

**Mr Guzzo:** Mr Colle isn't here and he's the only one that you can help.

**Mr Bisson:** Actually, I wanted to hear it.

**Mr Young:** OK, if I may have some leeway, I will go off topic a little. The ballots are sent out to all members of the municipality and included in every list is a voter declaration form. The ballot comes back to us in a sealed envelope, and separate but attached in another envelope is this voter declaration form. When they come in, the sealed ballot goes one way and does not get opened until November 13. The voter declaration form is taken to the voters' list and crossed off. So once you've voted and signed your piece of paper, you are crossed off the list. There is nothing saying that, yes, I can put someone else's name and be voting on their behalf, but we will be able to catch two votes under the same name, so there should be a certain amount of protection from voter fraud there.

If there are any questions for me, I would be happy to answer them.

**The Chair:** Thank you, Mr Young. We have about two minutes for questions.

**Mr Guzzo:** Thank you very much, first of all, for coming and for your comments. In your research, what is the oldest use of referenda that you have been able to find?

**Mr Young:** The oldest use of a referendum?

**Mr Guzzo:** Yes. When was it first used?

**Mr Young:** The actual very first use of a referendum question? I don't have the exact date of when one was used. One of the earlier speakers today mentioned trying to get binding referendum legislation in 1916 in Manitoba. A referendum is not something that is new. It's not a new process that we've just determined.

**Mr Guzzo:** Well, it isn't. I read in a book one time about a guy by the name of Pontius Pilate. He used referenda. He had 82% of his citizens in front of him and they

voted 97% or 98% to crucify this guy. He knew it was wrong. He didn't like it, as I read between the lines, but he went ahead with it because he had taken a referendum.

I would suspect that if you're a true democrat—when I was in a municipal seat, I wouldn't want to see a referendum for anything. That's what you're elected for, to exercise your judgment. What types of questions are you afraid to pass comment on?

**Mr Young:** I'm not afraid to bring forth any question.

**Mr Guzzo:** Then why would you not be here today telling us you don't want to see any form of referendum legislation?

**Mr Young:** First off, the idea that we need to have it absolutely binding—if we do have a 50% voter turnout and 50% plus one voted anyway, I believe you wouldn't find a municipal council that would go against the wishes of their citizens who had come forward in such numbers to express their interest in a matter, regardless. I do believe that said legislation is and will be a very useful tool, as long as it's up to the municipalities to use and as long as the municipalities are given as much leeway as possible to form the questions that they can.

However, there have been many misleading questions used in the past, vague questions. It would help to have someone—maybe it shouldn't be left up to the minister. Maybe it should be a tri-party committee that would decide, to allow as little bias as possible. But I do believe there needs to be somebody other than the local municipalities forming the entire question themselves. It's very easy to skew any question to the point that you'll never get a clear answer out of it. That's my concern. I think a referendum can be used as a valuable tool, but in its present form there need to be some sort of direction and guidelines. I think this is a step in the right direction.

I would like some more assurance, though—and I would like to see it in writing and not just heard from members of this committee or the members of this government—that referenda will not be used against municipalities. As long as it's totally up to us to come forward and say, "Yes, we're going to use this; yes, we are bringing this forward"—give us that right, don't force us to use it—then I see no problem with it.

**The Chair:** Thank you, Mr Young, for coming in this morning. That's it for the questions.

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JESSICA BRENNAN

**The Chair:** The next witness is Jessica Brennan.

**Mr Bisson:** Chair, I take it the previous presenter is not here.

**The Chair:** The previous presenter has withdrawn, which gives us a little more leeway.

Good morning, Ms Brennan.

**Ms Jessica Brennan:** Good morning. I hope everyone had a nice weekend and had an opportunity to celebrate Mother's Day.

**The Chair:** I know I certainly did.

**Ms Brennan:** Good. Well done.



My name is Jessica Brennan. I am the New Democratic Party candidate in the riding of Wentworth-Burlington for the upcoming provincial by-election. In my presentation today I will be speaking about this bill and pointing out what the bill fails to do, several areas where I actually offer my support, and some issues that I think arise from the bill that actually have to do with democracy in general and with referenda specifically.

First, let me address the failure of this bill to deal with the issue of Flamborough. Fundamentally, the government has ordered amalgamation in Hamilton-Wentworth, but it can't be completed because the minister has been paralyzed by the promise he has made to the people of Flamborough but seems unwilling to keep. As you may know, the Minister of Municipal Affairs and Housing made a promise to the people of Flamborough that he would allow them to leave Hamilton-Wentworth if they went through some very specific steps. They have gone through those steps. They have met their obligations and deadlines but the minister has not met his. First he complained that he couldn't rely on the financial numbers provided by his own transition board and now, after further delay, he's appointed a committee to study the issue, with no deadline for them in sight.

It doesn't escape my attention or those of the citizens of Wentworth-Burlington that these curious goings-on are made curiously at a time when there is a by-election in Wentworth-Burlington waiting to be called that has in fact been necessitated by the amalgamation issue in the first place. Not only has this delay thrown the community of Flamborough into turmoil, it has affected the regions of Waterloo and Halton as well as Brant county and the new city of Hamilton. They need to plan their municipal elections but now, because of these delays, they cannot. These communities also need to take care of the myriad issues around municipal restructuring but again, because of these delays, they cannot.

Still, this bill and the government's problem with the Flamborough issue demonstrate the very real weakness in the government's approach to municipal restructuring. With the exception of Haldimand-Norfolk, this government seems to feel that amalgamation is a one-size-fits-all panacea. This has ignored local communities and their history and ignores the desire that people have to determine their own future.

So let's take a look at two parts that I actually support. I support the government's removal of what some have called the Henry VIII clause. This incredible clause, quietly placed into Bill 25 last fall, allowed the government to amend legislation behind closed doors by regulation if the regulation would help implement the act. But curiously and, I would argue, dangerously, it was to be the cabinet that would act as the sole judge of whether that regulation helped implement the act. This was quietly placed into the bills amalgamating Hamilton-Wentworth, Greater Sudbury, Ottawa-Carleton, and creating the towns of Haldimand and Norfolk. Quite an amazing attack on democracy, frankly, not only for those communities but for the province as a whole. So I'm glad

they've been taken out, and I am grateful to those opposition members and the media who have drawn attention to this issue and unearthed and identified its dangerous impact.

I also support the removal of the provision allowing a mere 75 voters to override the wishes of the rest of their community and their democratically elected council and petition the minister for a restructuring commission. I'm glad that the government has seen this for the anti-democratic move that it is and, again, I am grateful to those who have pointed this out to the government and have persuaded them to remove it.

But removal of these two clauses in no way changes my assertion and assessment that this government's approach to municipal restructuring has been high-handed and has absolutely nothing to do with democracy, direct or otherwise. Need I remind you that we had referenda in Flamborough, in Dundas, in Ancaster and in Stoney Creek, and the answer to amalgamation in all cases was a resounding no. Yet the Harris government totally ignored these expressions of local democracy and went ahead anyway, just like they did in the more highly publicized case of the Toronto megacity.

So with this evidence before us, I am seriously challenged by the Tory government's claim that they are for direct democracy at the local level when they have repudiated the local democracy generated from that local level. In the case of Flamborough, they ignored a local referendum, then they made a promise to allow Flamborough to go its own way while amalgamating the rest of Hamilton-Wentworth, and now appear to be on the verge of perhaps breaking that promise.

When I look at the bill, what it appears to be really talking about is provincial control over local referenda. Two points convince me: (1) There is a 50% turnout that will be required, a turnout the minister knows is rare in municipal elections, so that will make binding referenda rare. (2) Perhaps more difficult is that the bill takes away the power municipalities now have to hold referenda on matters of community interest that might not be, strictly speaking, under municipal jurisdiction. For instance, I understand the minister has talked about referenda that were held about nuclear arms, which he may have considered inappropriate and frivolous. Personally, I think if a municipal council wants to hold a referendum on nuclear arms, they should be able to. It seems to me perfectly legitimate to give the people of a community an outlet for their views. If taxpayers think that's a waste of money, they can turf out the councillors responsible. After all, the election is at the same time and, frankly, that's democracy.

But what this bill is really about is preventing municipal councils from holding votes on issues that are closer to home, not necessarily issues about nuclear arms, but perhaps municipal restructuring itself. You know and I know that, strictly speaking, it can be argued and it's been demonstrated that restructuring of municipalities is a matter of provincial jurisdiction. That would mean that municipalities like Flamborough, Dundas and Ancaster



would not be able to hold the votes that they've already held, that the minister apparently finds so embarrassing.

Yet to add insult to injury, I'm told that the minister told reporters that the issue of whether these kinds of votes will be allowed or not allowed is a hypothetical one. It seems it doesn't matter that this is the very issue, municipal amalgamation, that has been the one that has been prominently on municipal ballots in recent years—prominent alongside downsizing from the province. So this new bill won't allow a vote on that either. This bill lets the province decide on a case-by-case basis what is provincial jurisdiction and what is not. The minister can prohibit the municipality from putting any issue on the ballot, even if it is clear to everyone else that it is in municipal jurisdiction.

Let there be no mistake, this bill will mean less direct democracy at the local level, not more.

Let me close with a few words to the minister about Flamborough. Frankly, the first word and the last word is, get on with it. You made a promise to the people of Flamborough to let them restructure themselves in way that didn't involve being part of Hamilton-Wentworth if they met certain conditions. They have willing hosts, they have dealt with the financial issue and they did it all in a very short time. The fact that this issue opens up problems of municipal restructuring for the minister is actually the minister's problem, not the problem of the people of Flamborough.

I felt an obligation to come here today to speak for the people I want to represent because they have been dealt with unfairly and undemocratically. Yes, I am the NDP candidate for the upcoming by-election in Wentworth-Burlington. But this is the third time I have come forward for my riding, the second time provincially. I have been involved with a small group of people monitoring the mandate, activities, decisions and impact of the transition board. I submitted a letter to the restructuring commissioner last year outlining ideas very consistent with that I have presented today.

But I'm still disappointed today. I'm grateful for the opportunity to be here but my gratitude is for those who have been able to alert me to this hearing and who have been able to allow me to rearrange my schedule to be here. If this was a proper and reasonable process—a democratic one—we would have had more than just two hours of public hearings on very short notice. We would have had public hearings across the province, particularly in the areas affected by restructuring: Hamilton, Sudbury, Ottawa and Haldimand-Norfolk. If we had had that kind of process, the people of Flamborough, Dundas and Ancaster could have been heard, and perhaps the people in the communities who want to welcome the pieces of Flamborough into their municipal structure would have also come out.

In closing, let Flamborough leave Hamilton-Wentworth, engage in a real consultation about how future secession requests will be dealt with and allow the city of Hamilton that you have created to also get on with its business.

Thank you very much for your time and attention today.

**The Chair:** Thank you, Ms Brennan. Because of the time, I think we should go straight to the next witness. They have come all the way from Moosonee, so I think we'll hear from them next.

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## MOOSONEE DEVELOPMENT AREA BOARD

**The Chair:** We have Mr Victor Mitchell and Mr Linklater—sorry, just Councillor Mitchell from Moosonee. Thank you for coming this morning. I know you've come a long way to address the committee, so please proceed.

**Mr Victor Mitchell:** Thank you, Madam Chair and ladies and gentlemen of the committee. Actually, it was last-minute notice to come out here on Friday, so I left home Saturday morning and went through a lot of trouble just to get here.

Bill 62, regarding changing the Moosonee Development Area Board into a municipality, has now gone to first reading and will probably go to second reading some time soon. The main concern of our community is that we support the idea of the municipality, but with caution. Other things in point are tax rates, the current funding that we get annually from the various governments—\$1.1 million is approximately the amount—as well as the downloading. You hear of downloading of services throughout Ontario regarding social housing, welfare, policing, ambulance, which we do not cover in our community due to the fact that we won't be able to afford it.

The only thing I would like to say to this committee recommendation-wise is that we would like to see our community maintain the funding that we presently have. As in the letter that's been passed around, taxes have gone up and people, especially the business community, do not want to start any businesses in our community due to the fact that the rates are too high. A couple of them are now at a point of selling their businesses and moving south, which is not the way to make a community grow.

There's been talk of downloading time and time again for the last couple of years and I understand, from figures that I've heard in the past, \$2.5 million would be our share if we were to take over the services that the province presently provides. If we were to do that, we would not be able to afford any of it. We would be back to a Moosonee Development Area Board so fast and we wouldn't survive as a municipality.

We don't have highway access to our community; it's only accessible by rail and by air. The costs up there are high—food, transportation, freight—so everything is quite enormous in terms of costs. We would just like to see the committee recommend that we leave everything the way it is except for the name change in terms of a municipality and be able to govern our community at our own level rather than Municipal Affairs supervising us, like at the present time.



**The Chair:** Thank you very much, Mr Mitchell. Mr Bisson, do you have some questions?

**Mr Bisson:** First of all, Gary, thanks a lot for deciding to come down at the last minute the way you did. Just for committee members to know, for Gary to get here for this morning, the only connecting way to get him out was on Saturday. That gives you an idea of the kind of difficulties individuals and business people in the community have to contend with when trying to do business in or out of Moosonee. So first of all, thank you for coming.

I guess I would want to give to the government the following couple of things that are of concern in the town of Moosonee, and Gary spoke to that. That is, there's going to be a fairly significant transitional cost when the municipality is created. The board, the chamber of commerce, the Moosonee Cree Alliance and local taxpayers have raised that they're not opposing the idea of creating a new municipal structure called the town of Moosonee, but there's a lot of concern in regard to what's going to happen with those transitional costs. In the letter that you received that's addressed to me dated May 10, there's a whole bunch of infrastructure that has to be brought up to standard. Under the current structure the province is responsible for that. Under the new standard of a municipality, the municipality will have to pick up a larger share of that cost of being able to build up the infrastructure. I guess one of the messages we want to bring to the government is that there needs to be some accommodation given to Moosonee, considering the situation it finds itself in. It has a very low assessment base. I think those of you who have been there understand there's a very high level of unemployment, so there's not the ability to get money that you would have in a community like Timmins, Sudbury or Toronto. I think what we're hearing from Gary this morning is the issue of trying to find some accommodation when moving towards the municipality.

I guess one of the questions I have, Gary, is that in the discussions I've had with people in the community over the last week or two, there doesn't seem to be a lot known about this move. The minister told us in the House that people in the community had been consulted, that everybody was aware of it and was on side. But it became fairly apparent last week, as we were calling people to let them know these committee hearings were coming, that not as much consultation had taken place as we were led to believe.

Is it your assertion that there should have been more time, in order to get citizens to understand what's going on here?

**Mr Mitchell:** You're right on that. In my term we've only had one consultation, and it happened in March this year. The first time we met with the Minister of Municipal Affairs was back in February. We wanted to assure municipal affairs that we would like a thorough consultation with the community and, as well, that it be our decision if we chose to go as a municipality or not.

**Mr Bisson:** Do you feel as if you're getting that choice?

**Mr Mitchell:** We decided on a choice, as board members of our community, but we also wanted to make that choice in a thorough and timely manner without having to—the next thing you know, we woke up one Thursday morning sometime in April and bang.

**Mr Bisson:** It'll all be done by next Thursday.

You were also a member of the Moosonee Cree Alliance, prior to your time on the Moosonee Development Area Board. Moosonee has about 95% First Nations people living there, and there is a move within the First Nations people to form their own band council and their own reserve. I'm wondering, Gary, once you lock yourself into a municipal structure, does that, in your view, take away your ability as First Nations people to organize your own reserve in Moosonee?

**Mr Mitchell:** We were assured at a consultation meeting we had with one of the municipal affairs personnel that it would not affect the aspiration of becoming a recognized First Nation, because it is another level of government, the federal government. So we hope that—

**Mr Bisson:** Have you been given anything in writing?

**Mr Mitchell:** No.

**The Chair:** There's one more question. I'm just concerned about the time, so if you could wrap up very quickly.

**Mr Bisson:** The second part of the question—the concern I'm hearing from people from the Moosonee Cree Alliance and others is that they really worry what this means, and I'm not quite sure myself. I think we need a little work from research, if possible, to let us know, before we get into clause-by-clause this afternoon, that if we create a municipality of Moosonee, does that in any way take away the ability to revert municipality to its own band office structure, including a reserve, if they decide to do that by referendum or whatever?

**The Chair:** Mr Coburn, just one question.

**Mr Coburn:** Just as a statement more than anything else. The Minister has committed, and committed in the House as well, that we are picking up 100% of the LSR costs. As far as some of the consultation, and you've had ongoing discussions with—

**Mr Bisson:** Does that include transitional costs?

**The Chair:** Excuse me. One question at a time. Mr Coburn.

**Mr Coburn:** I'm going to address that. There has been ongoing consultation with staff out of the Sudbury office as well, and that will certainly continue as we address some of the capital costs you've identified.

**Mr Bisson:** You didn't answer my question. Does that include—

**Mr Coburn:** Yes, I addressed it in the last part. You have to pay attention.

**Mr Bisson:** I am paying attention, but I want to hear your words: Yes, the province will pick up—

**Mr Coburn:** The LSR costs are picked up. The Minister made a commitment to pick up 100%, so nothing changes there—

**Mr Bisson:** And transitional costs?

**Mr Coburn:** Part of the transitional costs and some of the capital costs that have been identified are ongoing discussions with the ministry staff out of Sudbury. They haven't been resolved at this—

**Mr Bisson:** Haven't been resolved. The answer is no

**The Chair:** We'll move to the next speaker. Thank you very much, Mr Mitchell, for taking the time to come and address us this morning.

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#### WAHNAPIITAE FIRST NATION

**The Chair:** We have Mr Recollet and Chief Ted Roque from Wahnapiitae First Nation. To both of you, thank you for taking the time to be here this morning. I realize that you've travelled a long way, so we'll try to accommodate you as much as possible.

**Chief Ted Roque:** First of all, I'd like to say thanks for giving us an opportunity to speak here today. I'd just like to mention that I sent a letter to the minister, the Honourable Tony Clement, on May 12. I believe you have copies in front of you, so I won't read that, but what I will read is a band council resolution by Wahnapiitae First Nation towards Bill 62. I'll read that and then I'll have Peter Recollet, a member of Wahnapiitae First Nation, speak on some of the issues. So I'll start. The band council resolution:

"Whereas, Wahnapiitae First Nation submitted a specific boundary claim in June 1996 to Canada and Ontario claiming that the reservation as surveyed in 1885 is considerably smaller than was intended by the parties to the Robinson-Huron Treaty in 1850;

"Whereas, Wahnapiitae First Nation, in recognition by the parties that the Wahnapiitae First Nation have filed a legal claim with Canada and Ontario relating to lands and water within the bounds of the Wahnapiitae watershed (upper and lower) has entered into agreements with the following provincial government departments: the Ministry of the Environment; the Ministry of Northern Development and Mines and the Ministry of Natural Resources, for the purpose of ensuring that there is fair and reasonable notification/consultation/discussion with the Wahnapiitae First Nation with respect to any activities which may require an approval/permit from the province on any lands or waters in the following townships: Norman, Aylmer, Mackelcan, Telfer, Rathbun, Parkin, McConnell, Scadding, Street, and Lake Wanapitei and with the purpose to ensure that all parties shall use their best efforts to resolve, as reasonably as possible, any issue that might arise through the notification/consultation/discussion process; and

"Whereas, Bill 25, received royal assent on December 22, 1999, and although the City of Greater Sudbury Act, 1999 (which was schedule 'A' to Bill 25) has been enacted, not all of its parts are in force. Those parts of the legislation concerning the establishment of the city do not come into force until January 1, 2001 which involves the inclusion of the unincorporated townships of Fraleck,

Parkin, Aylmer, Mackelcan, Rathbun, and Scadding in the north within the boundaries of Greater Sudbury; and,

"Whereas, the Wahnapiitae First Nation has major significant concerns over the inclusion of the six townships within the new 'City of Greater Sudbury.' At the most, the availability of a number of settlement options would be eliminated, and that Ontario having recently released their 'Land Claim Fact Sheets,' have made it clear that it would be even more sensitive to the new city's concerns and, accordingly, the number of options available to the parties (including 'public involvement') would be further reduced; and

"Whereas, no party yet knows with any certainty what the new city may have in store for the six townships by way of planning, land use development, services etc nor how these plans may affect the First Nations aboriginal or treaty rights,

"Now therefore be it resolved:

"That, the province of Ontario is hereby petitioned to amend Bill 62 currently before the Legislature to reinstate the current regional boundary as the northern and eastern boundary of the new 'City of Greater Sudbury.'"

That is our resolution, but more to some of the points, I'll have Peter speak on those.

**Mr Peter Recollet:** Thank you, Chief.

Thank you for giving us an opportunity to speak with regard to some amendments around this bill. The chief spoke about the impacts that are happening to us with our land claim, which is a legal claim in front of the Department of Justice. Unfortunately that legal validation will not happen until January 2001, thus the new Greater Sudbury has been formed and will be in place.

We want to tell you about the impact that restructuring potentially could have on our First Nation, on our land claims. We don't know what the legal implications of those are on our aboriginal and treaty rights in light of a claim being submitted to the government of Ontario and the federal government.

The regional municipality of Sudbury has stated on numerous occasions that they need to protect the quality of water in Lake Wanapitei, but where were they when Inco Ltd had a major acidic spill that went directly through our community and right into Lake Wanapitei? There was no comment from the regional municipality of Sudbury, thus their issue of protecting the quality of that water.

The regional municipality of Sudbury, in the last week of public consultations on Bill 25, threw in the inclusion of these six townships surrounding Lake Wanapitei for the purposes of protecting Lake Wanapitei as the source for potable water—no consultation with the Wahnapiitae First Nation.

In 1997, Ontario deregulated the Wanapitei provincial park adjacent to the Wahnapiitae First Nation community for the purposes of resource extraction. Once again, Ontario cannot allow for more resource extraction from this area until the First Nation claims and rights are rectified.



Wahnapiatae First Nation is pro-development in resource extraction. We have developed a resource development policy which encompasses all the Environmental Protection Act.

Wahnapiatae First Nation and the regional municipality of Sudbury are neighbours. The Ontario government is pitting us against them. We do not want to involve ourselves in their affairs.

Wahnapiatae First Nation has opposed the inclusion of these townships from the moment they were made aware of it, four days prior to first reading of Bill 25. This is not meaningful consultation.

The transition board in Sudbury is recommending that these townships be removed for the purposes of financing policing and telecommunications in that area. Wahnapiatae First Nation supports that recommendation from that transition board.

The Wahnapiatae First Nation band council resolution dated May 12, which the chief just read, petitions Ontario to amend Bill 62, currently before the Legislature, and reinstate the current boundaries of the regional municipality of Sudbury. If these townships are included in Greater Sudbury, the Wahnapiatae First Nation will be classified as an urban reserve and funding from the Department of Indian Affairs will dwindle quite dramatically. You cannot say that we are an urban reserve when we have no telecommunications, water or sewers, even though we are right adjacent to the regional municipality of Sudbury.

**The Chair:** We have about two minutes for questions.

**Mr Colle:** You noted that the transition board recommended you not be part of the megacity of Sudbury?

**Mr Recollet:** That they remove those northeast boundaries. I have a copy of the resolution.

**Mr Colle:** Therefore, with those transition board recommendations, you would not be part of it and you wouldn't have the problem?

**Mr Recollet:** Exactly.

**Mr Colle:** Have you asked this government for a legal opinion about the impact of this inclusion on your land claim concerns?

**Mr Recollet:** Yes. As the previous speaker had said also, they have put nothing in writing in terms of that it will not impact. We've been requesting from the Minister of Municipal Affairs and Housing, with the Sudbury district manager there, in terms of an ongoing process—we know how that goes in Ontario—a legal review of those impacts. In light of our legal validation by the Department of Justice, the Ontario Native Affairs Secretariat is also involved in that legal review. But time is of the essence. The boundaries will be included as of January 2001. Our legal review by the Department of Justice won't be done until that time.

**Mr Bisson:** I just want to make sure that I'm clear. I've read, within the package you gave us, the proposal by the transition board. You're in support of that proposal? It pretty well mirrors what you have, right?

**Mr Recollet:** Correct.

**Mr Bisson:** So if this committee were to amend the legislation in order to accept what you recommend and what the transition board recommends, that fixes your problem.

**Mr Recollet:** Correct.

1200

**Mr Coburn:** I have a question and then just a comment. You made reference that if you were part of an urban setting, that would affect funding from the Department of Indian Affairs. To what extent?

**Mr Recollet:** We haven't done that number crunching. A lot of Department of Indian Affairs funding is based on your classification as a reserve—if you're urban, semi-remote or remote. The previous speaker would understand that. We haven't done the number crunching in terms of the impact on the amount of money that would be taken off our yearly funding from there, but it would dwindle quite dramatically, because we are still considered semi-remote because of no infrastructure—phones, water, sewer.

**Mr Coburn:** Madam Chair, with respect to Bill 62, this bill does not address any aspect of the issue of boundaries. Therefore, that, under this bill, is not on the table in terms of the amendments.

**Mr Recollet:** We're requesting to amend Bill 62 to include the removal of those boundaries.

**Mr Bisson:** Clearly, what happened here is that this bill is to fix the problems you created when you created these municipalities under the previous bill. Certainly if we as a committee decide to introduce amendments in order to do exactly what the transition board wants and what the Wahnapiatae First Nation people want, there's no reason why we can't. It would be bizarre, because you're fixing the problems you created in the first place. That's why you bring this legislation here. So don't tell me we can't, because we can if we decide.

**The Chair:** Members of committee, rather than moving into debate on that issue right now, you will all have an opportunity to address that in your submissions this afternoon.

**Mr Bisson:** We only amend when we feel like it? Come on.

**The Chair:** Chief Roque and Mr Recollet, I appreciate your coming in this morning.

Members of committee, we have two more speakers. What is the wish of committee? To hear from them briefly this morning?

**Mr Colle:** Yes, if they're here. Then we won't have any at 3:30.

**Mr Bisson:** We have one at 3:30.

**The Chair:** We have one conference call at 3:30, and we'll be hearing each party's submissions after that.

**Mr Colle:** I'm certainly disposed to hearing the two more, if they're here.

FRANCES GILBERT

**The Chair:** Frances Gilbert? Good afternoon, Mrs Gilbert. Thank you for your patience this morning.

**Mrs Frances Gilbert:** Thank you so much for allowing me to speak.

My objection to the bill is the lack of publicity in advance to the public, no discussion among the people about how best to manage. Most of my concerns have been addressed by previous speakers, who covered them far more eloquently than I could hope to do. The bill for democracy through municipal referenda really means the opposite of what it says, from what I can understand. I see this not as enfranchisement but strangulation. It follows a pattern of naming a bill with a benign and generous title and proceeding to ensure the opposite, which is a travesty of democracy. There's a tide of cynicism, resentment and disillusion against this erosion of our democracy. I'm grateful to Councillor McConnell and John Sewell and various others, whose names I couldn't get down quickly enough, for their careful analysis of a bill to which I had no access, like a large part of the general public, who remain almost totally unaware of what is going on. If we allow this drift away from democratic principles and practice to continue, there will be social unrest.

My concern is for myself, selfishly, and for my children and my grandchildren. People in that generation very often are so pressed with the demands of putting food on the table and clothing the children and so on—there are two parents working in the average family—I don't know how much news they ever get a chance to hear or read and what is their interpretation thereof. They only hear constantly that we live in the best country in the world, because we hear this from reliable sources many times a day. It may be so. I do think Canada is the best place in the world. But it isn't going to stay that way if we don't guard our democratic rights, which seem to me are being eroded. I thank you. I won't take any more of your time.

**The Chair:** Thank you very much, Mrs Gilbert. Are there any questions?

**Mr Bisson:** I have a very simple one. I think you touched what a lot of people are feeling in regard to the democratic part of the bill; that is, how do you feel about a government that supposedly wants to increase democracy but time-allocates a bill and allows the public two hours and 15 minutes to have its say on a bill that supposedly expands democratic rights?

**Mrs Gilbert:** There were certain people who came many miles and had very short notice to make such travel arrangements. I didn't see this in the press; maybe I didn't read the paper that day. But certainly it hadn't been advertised on the radio or in the press. If not for attending a lecture at a community centre, and because I'm on the mailing list of someone who has had this information—and I look at my e-mail—I wouldn't have known. I think that's awful.

**The Chair:** Thank you, Mrs Gilbert.

AUDREY FERNIE

**The Chair:** Audrey Fernie.

**Miss Audrey Fernie:** My name is Audrey Fernie. I speak as an individual concerned citizen. I made the mistake of being out on Friday afternoon, so I missed the 10-minute opening to get on the official list.

There must be some Conservatives who realize that hate is a debilitating emotion. You underestimate the intelligence of voters. Do you really believe we think this is an extension of democracy? It's the exact opposite.

Why do you hate Toronto, the engine of your economy? If increasing property or business taxes were the referendum and we didn't achieve 50% voter turnout or 50%-plus-one acceptance, we could not have a necessary tax increase, so we would have to further cut services. Is this what you want, a debilitated city?

Also, you promised smaller government. You're interfering needlessly in a well-run municipality. This is bigger government.

I know the opposition can't outvote the Conservatives, so I'm appealing to your sense of honour.

**The Chair:** Thank you. Any questions?

**Mr Colle:** Thanks for coming. So you had intended to speak to this bill but you weren't at home to get the call, I guess?

**Miss Fernie:** That's right. So I was here at 9 o'clock. Thank you for extending, but I felt I wasn't going to get a chance at all.

**Mr Colle:** Do you have any indication of why there is this mad rush to pass this bill, with closure motions and everything? Do you have any indication of what the urgency of this bill is?

**Miss Fernie:** It's very hard to keep active and think there's some hope of stopping a government from taking control of everything when we're doing very well, thank you.

**Mr Colle:** You certainly are right. This government is certainly in love with big things. They've made Hamilton into a megacity, Sudbury, Toronto. You're so right. This was supposed to be a government that intended to be about smaller government, and yet they're creating the biggest governments. In fact, the city of Toronto is almost the same size as British Columbia and Alberta now. There's more bureaucracy. As you heard, even the police are complaining about the bureaucracy with these transition teams. Anyway, thanks for coming and for your desire to participate. Don't give up.

**Miss Fernie:** I won't give up, because that's the only hope with active people who are trying to change things and get back to the democracy we used to have. Any questions from the Conservatives?

**The Chair:** Thank you, Miss Fernie.

**Mr Colle:** They're afraid of you.

**Mr Beaubien:** I'm not afraid of asking a question. I certainly appreciate your being here.

**The Chair:** This committee will reconvene at 3:30.

**Mr Bisson:** Before we adjourn, I want to clarify something. I take it that all the amendments have been



submitted. Could we get a copy of the amendments from the Tories and the Liberals as well?

**The Chair:** That's a valid question.

**Clerk of the Committee (Ms Susan Sourial):** We're still waiting for some Liberal amendments.

**Mr Colle:** I have just two amendments, based on one of the presentations, that I'm bringing forward. I'm having them typed right now.

**Mr Bisson:** Can we arrange, then, that you can get them to our research people?

**Mr Colle:** They're going to be ready momentarily.

**Mr Bisson:** I take it you have made the arrangements for the Moosonee Cree Alliance presentation this afternoon?

**Clerk of the Committee:** We're working on it.

**Mr Bisson:** OK. Excellent.

**The Chair:** We're working on that. We'll hopefully have that by 3:30 this afternoon.

**Mr Bisson:** I also have a motion I'd like to have the committee entertain; that is, that the committee cover the expenses of those people who had to travel from far away—Wahnapitae and Moosonee—to get here; that we cover their travel and expenses—airline tickets, meals, hotels, that stuff.

**Mr Colle:** How about Flamborough?

**The Chair:** We'll deal with that motion right now, members of committee. Could you read it again, please, Mr Bisson?

**Mr Bisson:** I move that the committee cover the expenses of those people who had to travel from Moosonee and Wahnapitae—I'm not aware if there's anybody else who had to travel a fairly long distance, but at least those two—and that we cover transportation, both air and ground, along with their hotel and meals.

**Mr Colle:** How about Newcastle and Flamborough? Somebody came from Newcastle, I think.

**Mr Young:** It's an hour away. Don't worry about it.

**The Chair:** Let's not get carried away.

**Mr Bisson:** I just want to make sure we get it covered, because as you expect, travelling from Moosonee is quite expensive, and so is Wahnapitae.

**The Chair:** Yes, that was discussed. Is the committee in agreement with that? All in favour? Opposed, if any? That carries.

We will be reconvening at 3:30 this afternoon. Thank you for taking the time to come out this morning.

*The committee recessed from 1211 to 1539.*

#### MOOSONEE CREE ALLIANCE

**The Chair:** We will call the meeting to order. Ms Linklater, you have 10 minutes in which to make your presentation, and depending on the time, we'll allow for a couple of questions. If I may ask: If you could speak up really loudly so that all members of the committee can hear, that would be very helpful.

**Chief Irene Linklater:** OK. First of all, I would like to thank the committee for the opportunity to do a presentation on behalf of the Moosonee Cree Alliance First

Nation. I was elected chief in September. The political birth of the Moosonee Cree Alliance began in October 1997, when a group of First Nation people from Moosonee met to discuss the establishment of, and need for, a First Nation band and reserve in Moosonee.

The population of native people in Moosonee is approximately 85%. The native people living in Moosonee come from various different First Nation reserves along the James Bay area. The reason we have such an increase in the number of First Nation people living in Moosonee is due to health reasons, medical reasons or even unemployment, education and housing.

We are in the process of working with Minister Nault on our application, that we had already sent in, for recognition of band status. Presently, we are awaiting a response from Minister Nault.

At this time, with regard to Moosonee becoming a municipality, the Moosonee Cree Alliance First Nation feels there has not been sufficient consultation or information with the Moosonee Development Area Board. It has become quite apparent during meetings at the board office and also at the general public meeting that there hasn't been sufficient information regarding this issue.

I would like to make the recommendation on behalf of the Moosonee Cree Alliance First Nation that there be sufficient consultation with the members or residents, as you may call them, of Moosonee, because any implementation or work towards a municipality affects my members of the Moosonee Cree Alliance. We would also like Moosonee to remain at the status quo until Bill 62 and what effects this bill will have on Moosonee as a community are studied.

One of the recommendations we made previously with the Moosonee Development Area Board is that they canvass and go door to door to explain exactly what is happening with the implementation of this municipality. I believe this hasn't been sufficiently addressed at the community level, and at this point in time, with the Moosonee Cree Alliance First Nation working towards having the recognition of band status and a reserve in Moosonee, I believe there is no communication between the board and our organization.

In this decision the board has made, they haven't consulted with their neighbours. When I refer to neighbours, I'm referring to the Moose Factory First Nation, with whom we had a meeting with the Moosonee Development Area Board—the first meeting we had together with the development board. At that time the chairperson of the board indicated he would like to have a working relationship with both organizations. Because we are in Moose Factory's traditional territory, I believe they also need to have input.

Up to this time we have never had any input to Bill 62. I believe, as members of Moosonee, the Moosonee Development Area Board needs to address these issues before passage of this bill. Am I heard loud and clear?

**The Chair:** Yes, you most certainly are. Is that your submission, Ms Linklater?

**Chief Linklater:** Yes, that is my submission.

**The Chair:** We've got a few minutes for questions, and we'll start with Mr Colle.

**Mr Colle:** It's MPP Michael Colle from the Liberal Party. Thanks for taking time out.

Your last comment: Have you had any discussions about this bill with any members of the Ministry of Municipal Affairs or any other government department?

**Chief Linklater:** No, I haven't.

**Mr Colle:** Not one person from the ministry by phone or in person?

**Chief Linklater:** No. I actually left a message with Minister Clement to call me regarding this bill, but I haven't received a call from him. I believe Bill 62 is very important. How it will affect the members of Moosonee needs to be studied and examined. I am a member of Moosonee, and I was raised in Moosonee. I want to know exactly what the pros and cons are to the implementation of this bill.

**Mr Colle:** The other question I have is, what is your biggest fear in terms of what this bill might do? Have you got a copy of the bill, by the way?

**Chief Linklater:** No, I don't.

**Mr Colle:** This is unbelievable.

**Chief Linklater:** Nobody has had a copy. I talked to Chief Toby Beck from Moose Factory First Nation this morning, and he has never seen a copy of Bill 62. Nobody has.

**Mr Colle:** I don't know what we can do, because closure has been invoked on this bill, and it has to basically get out of committee today by midnight. So I don't know how you are even going to get a copy before the bill is passed committee and third reading. I will pass over to Gilles Bisson. Thank you.

**Mr Bisson:** Irene, it's Gilles Bisson here, local member of Parliament for Timmins-James Bay.

I have two questions. I already know the answer to one, but I think the committee needs to hear it from you and not necessarily from me. If you had to assess the degree of understanding in the community by local citizens as to what's going on here, of the people living in Moose Factory, how many of them do you think really know that, come the end of the week, legislation is going to be passed that forms the municipality of Moosonee?

**Chief Linklater:** No one knows at this point in time—maybe a handful. To my knowledge, the members of Moosonee don't understand what's going on, because it's 85% First Nation people who live in Moosonee and a majority of them speak their First Nation language, which is Cree, and there has been no interpretation into Cree in regard to the explanation of the municipality issue in Moosonee. Also, Bill 62 hasn't been introduced. I requested at the public meeting that this also be done at that meeting. There was an interpreter at the public meeting. However, there was only one meeting where there was an interpreter, and Moosonee has not been totally informed as to what effects this municipality issue will have on Moosonee members.

**Mr Bisson:** Irene, Victor Mitchell from the board was here earlier presenting, and one of his comments—I'm

not sure if he told the committee or mentioned it to me afterwards—was that there was only one occasion where the ministry had actually gone up to speak to the public, which was at the public meeting that was requested by the community about a month and a half ago. Are you aware of any other consultations that have taken place other than the public meeting you were at on this issue?

**Chief Linklater:** No, there was no other consultation.

**Mr Bisson:** The last question I have is, if they are going to change Moosonee into a municipality, is it your belief that that should be the decision of the provincial government or should it be the decision of the local citizens of Moosonee?

**Chief Linklater:** I believe very strongly that it should be the decision of the members of Moosonee, because we are the people who have lived in Moosonee all our lives.

**Mr Bisson:** Thank you. Maybe the government members have questions.

**The Chair:** We have time for about one more question.

1550

**Mr Coburn:** Brian Coburn. I'm the PA for municipal affairs for the government. I just have some comments that may provide some clarification.

As a result of that meeting which was held in February, where, as you indicated, there was a Cree interpreter, there were three issues with respect to the Moosonee Development Area Board. As to what type of a change this would be, it was indicated that the Moosonee Development Area Board is a provincial agency now, and this change would mean that it would move from a board and Moosonee would then become a town, a local body rather than a provincial body.

A couple of the other relevant issues that came up were with respect to fishing and hunting rights. I believe there was a question asked if this affected the traditional fishing and hunting rights. The answer to that is no, it does not affect those rights. The Moosonee board does not have any legal authority in this area, and if it is a town, Moosonee still will not have any legal authority over the fishing and hunting rights.

Another point of concern was the fact that this change means that the Moosonee board can affect the Moosonee Cree Alliance. The response to that particular issue was that the Moosonee Development Area Board does not have any jurisdiction over the Moosonee Cree Alliance now and this will not change if and when Moosonee becomes a town.

With respect to the boundaries, there will be no boundary change. They will remain the same.

I don't know if that is of some help.

**The Chair:** Do you have any comments to that, Ms Linklater?

**Chief Linklater:** Yes, I do. Our concern is regarding our lifestyle in Moosonee. As First Nations people, we do live off the land and we respect the land also. However, when we go hunting, there are certain criteria that we have to follow. If it was a First Nation reserve, those criteria would not be there. So right now, with the municipi-



pality stating that once Moosonee becomes a municipality they have no effect on any of our traditional lifestyles, I believe there will be some effect with regard to that, regardless of what has been said. I believe it needs to be in writing. We need to see exactly what it is, the pros and cons. I feel at this point in time that there has not been enough consultation to examine Bill 62 and how it will affect the members of Moosonee.

**Mr Coburn:** The responses that I had just given a moment ago I do have in writing, and I can submit it to the members for their information.

I would also note that the Moosonee Development Area Board does not have jurisdiction outside of the town limits. This is crown land under Ministry of Natural Resources jurisdiction. So I don't believe there is anything that has changed there either.

**The Chair:** Just a very quick wrap-up, because we're out of time.

**Mr Bisson:** Very quickly, just to wrap up, Irene, first of all, thank you for your presentation. But to the parliamentary assistant, the issue for them is that they're looking at eventually moving to band status and creating their own reserve, which would be within the confines possibly of where Moosonee is now. There are some concerns that if you go the way of a municipality, it's going to hamper their ability to do so. That's part of it.

The other issue is that the problem up in Moosonee is that not a lot of people have understood what is coming down the pipe to them when it comes to the creation of this new municipality, and that's really one of the big objections here. I think a lot of people are prepared to go along with it, providing that you take your time and explain to the community what's going on. It has to be done in Cree, because a good percentage of people don't speak English or French, so they have no idea this is coming down the pipe. They want to know and have questions answered as to whatever concerns they may have about the creation of the municipality. Will it hamper their native rights? What does it mean towards the creation of a new band? Will you pick up the transitional costs as you move through? There are a number of questions that need to be answered. I find it a little bit hard to take when the leadership of that community hasn't even got a copy of the bill and we're going ahead and passing this legislation by way of closure. I wish we could separate this part of the bill out of the closure motion to allow the community to deal with it and go the regular committee process so that we're able to develop a bill that works for the community.

**The Chair:** That's the time for Ms Linklater. I appreciate your taking the time out to call us this afternoon. Thank you for speaking so loudly.

**Chief Linklater:** I want to thank you for the opportunity to express the concerns on behalf of my First Nations organization.

**The Chair:** We will now go to opening statements, starting with Mr Colle.

**Mr Colle:** This bill is really an omnibus bill. It's got everything in it, and it's really typical of the way this

government operates. It tries to jam so many things that are so complex, affecting so many people's lives, into a bill that covers everything from, as we just heard, First Nations' issues—they haven't even seen a copy of the bill. That's disgusting. They weren't even given the courtesy of getting a copy of the bill. It deals with their future. They should at least have an opportunity to have input, in a very systematic way, to the future of their community. Yet they haven't even had this opportunity. The bill was drafted. You've got hundreds of people working in the Ministry of Municipal Affairs, and they wouldn't even get on the phone and fax them a copy of the bill.

We've heard the same thing from people from the Sudbury area. They don't want to be part of this megacity of Sudbury. It's going to affect their land claims disputes. There's no legal opinion that you offered them to try to assuage their concerns. Yet they're going to be shoved into this bill whether they like it or not.

This bill deals with so-called referendum legislation. It's actually legislation to stop municipalities from participating in referenda, the way I see it. It deals with municipal campaign finance reform, a very complex issue. Then it tidies up all the sloppy work done in the Sudbury act, the Haldimand-Norfolk act, the Hamilton act and the Ottawa act. They're all in here, very complex. They're all thrown into this bill too. The Town of Moosonee Act, the Municipal Act is reformed—it's just got everything. There are changes in the Education Act, the County of Oxford Act, the Conservation Authorities Act. The Building Code Act is changed. Even the Greater Toronto Services Board Act is changed.

Then, thrown into all this is the creation of a new level of government in Kitchener-Waterloo. They've got a directly elected, second-tier government in Waterloo in this. This government talks about having one tier, one tier is the only way to go, in Toronto you have to have one tier and you've got to have the provincial boundaries match the local boundaries. In Kitchener-Waterloo they've now got a permanent second level of government. The regional government is created permanently with directly elected councillors in Kitchener-Waterloo. That's thrown into this act too.

It's an affront to people's sense of being treated in a reasonable fashion. When the last minister left, who is now working for Highway 407, I thought that perhaps this new minister wouldn't be the same arbitrary, catch-all minister who is throwing everything into bills and shoving them down people's throats.

We've got closure on this. This is a bill that talks about democracy being potentially enhanced. It's got a closure motion. This is it. There's cutting off debate, because you might hear from people from Moosonee.

The police association was in here. The police services in Hamilton-Wentworth, Sudbury and Ottawa are amalgamated, so why are they in this stupid bill? They shouldn't even be here. You've created more red tape, a transition board which duplicates their work and then they can't bargain collectively, because you don't even



understand that the regional police services in those areas are already amalgamated. They're already there. What are they doing in this bill?

It seems that this is an attempt by the government to control everything they're paranoid about. The public, in no way, can find out how this bill is going to affect them. This bill was introduced on April 13. Here we are, a month later, expected to absorb all these complexities. Can you imagine what the regulations are going to look like? There are going to be piles of regulations the public will never see, which are all part of this omnibus bill that is anti-democratic. It's an insult to people, and it takes away their right to participate and even know what's in the bill and how their lives are going to be affected. But it's the way this government feels they have to do business, and typical of everything they do.

As you know, the referendum legislation is a mockery. Even if you support referendum legislation, this is a mockery. There are no citizen-initiated referenda, for instance, which the minister promised. It's not there. Then minister decides what the wording is going to be, whether it's going to be in the provincial interest. He decides what the provincial interest is going to be. Then the province can impose a question on municipalities.

1600

On top of that, there's such a rush here. The question has to be tabled in 180 days. This is May 15. It's impossible this year, unless the minister has a special dispensation where he might allow you to put in a question for this year's ballot. And you know what he said about the Toronto situation. He and the Premier say, "No, we're not going to allow that question about Toronto's concerns on the ballot this year." They've already predetermined the exact question. Before the bill has passed, they're saying, "No, we're not going to allow the question," even before they've looked at it.

Again, this is a bad piece of legislation, a bad piece of referendum legislation and really an affront to people's sense of fair play and trying to find out what the government is doing. Really, this demonstrates the government just doesn't care what people have to say; they get it through. There are so many complexities to this, and there's going to be no opportunity for input. Luckily we've had at least a couple of hours of deputations, which had to be done despite that ridiculous closure motion on this bill.

Other than that, it's a great bill.

**Mr Bisson:** I would state, first of all, that the NDP finds itself in a bit of an odd spot with this bill. There are some things you're attempting to do in this legislation that, quite frankly, we can live with—that I can live with as an individual member and that I think the party could live with as well—namely, what you're trying to do by way of trying to create some democratic structures in order to increase democratic participation on the part of individuals and give them a voice in our parliamentary system.

How you're going about it and how hurriedly you're going about it make it really difficult to support. As we

read through the legislation, you're saying, on one hand, that you're prepared to give people referendum rights, which is in itself not a bad thing, but the details in the bill make it that the minister will decide what the question will be and if the question can be put. The idea of a referendum is to allow individuals to decide if they want a referendum, yea or nay, and then let them work out the question. I think voters are smart enough to figure out what the question is and how to vote on it. You're saying: "No, the voter isn't bright enough. Let's put it in the hands of the Minister of Municipal Affairs." I think that's wrong.

Second, the threshold you're putting on the bill, where you're saying you have to have a 50% turnout in a municipal election in order to have a referendum, makes it little difficult. We're even electing members of Parliament—some of you—with less than 50% turnouts in elections. I don't see Conservative members lining up at the outside door of the Legislature saying: "No, I didn't win my seat. I'm out of here. I didn't get 50%. Let me leave." You guys took the job and you said: "You know what? A majority of those people who voted, voted for me. Therefore I'm coming." Why isn't it the same when it comes to a referendum? If the democratic process is—I wish—that 100% of people turn out, let's deal with trying to find processes that encourage participation in democracy.

The one thing I would like to have seen you address in this bill is a bigger debate about how Parliament works. I think people aren't so much upset strictly around the issue of referenda; they're upset when they take a look at how Parliament works or, should I say, doesn't work, where you have a process in committee such as we have today, where the government comes forward with a democratic bill, supposedly to enhance democracy, and they time-allocate it and give you two hours of public hearings and don't even bother sending the bill to the people it is going to affect. So you've got to wonder, where does that leave people?

Those are my first comments in regard to the referendum issue. Again, I want to say that the NDP is in favour of trying to find ways to put forward ideas that increase democratic participation and increase the voice of the people, but I don't see the bill doing this in the way that you're doing it.

The second part of the bill is, I would say, the "oops" part of the legislation. You made errors when you created Bill 25, creating the cities of Sudbury, Hamilton, Norfolk and Ottawa. You've got all kinds of errors in the legislation. Why? Because you hurried the process. You didn't listen to the opposition members. You didn't listen to the public. You didn't even listen to your own backbenchers. One member had to resign from this place because of the position you took under that bill. As a result, you have problems in Bill 25 that make the legislation unworkable, and you're having to come back now to try to fix the problems in your new megacities.

My view and that of the party is very simple: If municipalities want to merge, that's their decision. It has



happened in the past, and it will happen in the future. I come from a municipality that merged itself some 27 years ago. There were five municipalities. Without the leadership of the provincial government, on their own, they decided they wanted to amalgamate. Then the province put enabling legislation in place in order to make that happen. So the government purports that it's doing this because municipalities won't do it on their own. That's false. Municipalities have merged and amalgamated before, long before Mike Harris came along, and I think to try and force amalgamation on people is wrong. Amalgamation itself is not a bad thing provided it's locally driven.

The third part of the legislation—I just want to end on that—is the creation of Moosonee. You've heard Victor Mitchell and Irene Linklater from Moosonee today, who presented on this particular bill. The troubling part of it is that most people in Moosonee are not opposed to the issue of creating a municipal structure for Moosonee. In my discussions with people I've talked to at the band level in Moose Factory, at the Moosonee Cree Alliance, at the area development board and with people at the chamber of commerce, I've found they generally have some support for what you're trying to do.

I think what is frustrating people—they're saying, "At least talk to us, consult with us, ask us what we think and answer some of the questions we're worried about, and then let's go out and do it right." Again, you're rushing this legislation through. You're not giving people an opportunity to get their heads around it and work at it from within a community so they can take ownership of their new community and feel proud of it. Instead, it's a top-down decision where Mike Harris, the Minister of Municipal Affairs, the parliamentary assistant and others say: "We're going to force this situation on you. You shall become a municipality of Moosonee and you don't have two say about it."

I think that's wrong. I think the majority of the people in Moosonee can probably live with it, but you have to have a process where people buy in at the local level. It's a very simple thing. If you can bring people to a position and get them to accept it, they will embrace it and they will go out gladly and make it work. But how well is this new municipality going to work if people are walking into this thing not really knowing what the heck is going on?

The other little note I just want to make on Moosonee, and Irene touched on this briefly, is that Moosonee is a community comprising 85% First Nations people, many of whom don't speak English or French. All of a sudden the government came in with one consultation on this issue about a month and a half ago, and then the minister stood up in the House about a month later and said, "We've consulted." Listen, when you're trying to do something in the context of a First Nations community, you have to be sensitive to the cultural differences and the language barriers that exist between our two peoples. We have to have respect for our two peoples when it comes to how we move forward. This, in my view, has

been done wrong. It should have been done on a government-to-government basis. We should have involved the First Nations bands in and around the area, the Moosonee Cree Alliance and the people of Moosonee to talk about this a little bit more before going ahead. Instead, you've decided to do it on your own, and I think that's wrong.

Is there general support in the end? Probably. Would people accept a municipal structure in the community of Moosonee? More than likely, if they know their questions have been answered. Is there going to be transitional funding? I heard the parliamentary assistant talk to that earlier. He said there's going to be money kept to the same levels when it comes to operating budgets, but there are no guarantees around transitional funding. There is not the tax base in Moosonee that there is in Timmins or Sudbury. Therefore who's going to pick up the increased capital costs when it comes to maintaining and increasing the infrastructure within the town of Moosonee? Those are very serious questions for taxpayers in that community who are already worried that their taxes are going to increase as a result of the new responsibilities they'll have to take on when they come into the municipality.

The last issue—and research has somewhat addressed my concerns but I think we need to look at it a bit more—is the issue of what happens if the First Nations people in Moosonee want to form a band within the area of Moosonee? Research is telling me, from the document they've given us, that it would not stop them from creating a municipality, but it would add another layer of complexity about how to form it. There are other issues, such as where the federal government is in all of this. I say again, those kinds of questions should have been answered at the beginning of this process so that the people themselves can understand, accept and make a decision themselves.

I repeat again the NDP's position: It should be locally driven. If the local people want to do it, we should be supporting them as a provincial Legislature. I feel that in this part we're forcing it on them, and that's unfortunate.

**The Chair:** Mr Coburn.

1610

**Mr Coburn:** It's a pleasure for me to be here today. This is really the first one I've handled as PA, so the litmus test will be at the end of the day, I'm sure.

It's a pleasure for me to speak to the Direct Democracy Through Municipal Referendums Act. If this act is passed, this will give Ontario voters certainly what we believe is a stronger voice in the local democratic process.

The purpose of this legislation is to allow municipal councils to ask voters clear and concise yes and no questions. For those of us who have come from a municipal background, quite typically one of the complaints we hear from our public is that things aren't clear enough. When you get into a referendum situation and ask a question that can have a variety of interpretations to it, a clear yes or no sometimes just doesn't do the job. That's the purpose of this, to have questions in an understand-



able format should councils have to use this type of decision-making process.

Of course, in a democratic process you elect a council, and the public puts their mark on a ballot at election time and they put their faith in elected people to provide guidance and make decisions on their behalf. But we all know that sometimes council members have difficulties in making hard decisions and they will tend to go to a question on the ballot to make the decision for them. From my particular point of view, a referendum is used as a last resort, when a council can't make a decision and they turn to the public to help them make that decision. Certainly in a democratic process, that's what you elect members of council for, to make decisions.

We believe that the current system, which allows municipalities to ask any question even if it's not under their jurisdiction, is a waste of time and money and creates a lot of anxiety in the community, and at the end of the day they can't really do anything about it if they get outside of their jurisdiction. This piece of legislation allows municipalities to ask referendum questions only on those issues that they are responsible for and that they have the ability to act on.

If the answer is yes at the end of day, and 50% vote for it, that is a binding decision and they must act within 180 days after the votes are cast with respect to implementing a bylaw or a resolution if it's required. If the referendum answer is no, then to prevent an issue from arising every six months, they abide by that decision for the following three years unless another vote is held.

As it is now, the province has the authority to direct municipalities to place a question on the ballot, and this legislation continues that authority. In that event, the province would pick up the costs, naturally, associated with putting a provincial question on the ballot.

Municipalities would not be bound by the result of any question placed on the ballot by the provincial government.

This legislation ensures that the public is involved in the process of placing a question on the ballot, that it can't be done arbitrarily without an opportunity for public input, which is a concern to all us. You've heard that this morning and again this afternoon: to ensure that the public has an opportunity to comment.

First of all, if a municipal council wanted to ask a question, it would be required to begin the process 180 days before voting day by authorizing a referendum bylaw. The voters would be given at least 10 days' notice of council's intention to pass this bylaw. Within 15 days of passing the bylaw, council would have to let voters know the exact wording of the question and the implications of voting yes or no and the financial ramifications of it. This is so the voters have an opportunity to know exactly what is going on, so they can mull it over in their own minds and ask questions and get further information and clarification in ample time before the vote.

If it's felt that the wording of the question is unclear or in some ways biased, any elector, or the provincial government, would be able to appeal that wording of the

question to the Chief Electoral Officer of Ontario. That takes it out of the hands of the minister. It's an appeal to the Chief Election Officer of Ontario.

These provisions would allow voters to make an informed choice. In a free-spirited way, they have ample opportunity to get more information. They would understand the question they're being asked and know that it is clear and fair, knowing the full costs and other important implications of the decision they are being asked to make.

If this bill is passed, some of the time frames mentioned—for this particular situation, this year, because of the time factor—will be shortened for this election year only. This will ensure that councils have an opportunity, if they wish, to ask referendum questions this November. If they can't make decisions on their own, they may wish to go to the public via a referendum.

This legislation also gives the province the authority to set campaign financing rules, so there can't be any tinkering with money not being able to be tracked in this process. The rules would be similar to those that candidates in municipal elections have to follow. Contributions from a person, corporation or trade union are limited to \$750 for any one campaign, and the council is not allowed to spend public money to promote a particular position on the question.

The issue with respect to the 50% voter turnout, which had significant discussion here today, is an important facet of this piece of legislation. If the issue is that important, and I suspect it would be one of the more important issues if council decides to go to a referendum, therefore it should be, as we have in the democratic process, 50 plus one; 50% of the electorate would have to vote. If this is an important issue, if it is of significant importance, it should galvanize the electors and draw at least half of them to the polls. If the issue doesn't generate enough interest to bring more than half of the voters to the poll, then obviously that would be a signal that the local council was remiss in not making a decision on their own.

Bill 62 has other provisions in it with respect to Haldimand-Norfolk, Hamilton-Wentworth, Ottawa-Carleton and Sudbury, dealing with administrative matters which would bring us closer to municipal reform in those jurisdictions.

Other provisions respond to a local request to create a directly elected Waterloo regional council. This would help improve the accountability to taxpayers in that particular region. As well, the number of local politicians in that region is reduced to 49 from 63.

The chair of the regional municipality of Halton would be given a vote in all matters. Again, this is in response to a local request.

I just want to touch briefly on Moosonee. The information that I indicated earlier was sent out to the Moosonee Cree Alliance in Cree, as I understand it—not necessarily the bill but the information that I had provided. The Moosonee district board again copied the attached plus the Town of Moosonee Act to them last week. They



stated that it had been sent out earlier, so I just confirm that they sent it out again last week.

The transition team with respect to the city of Sudbury: The transition special advisers who were doing the report had sent out the terms of reference and invitations to the First Nations in the study area. They made phone calls to the chiefs to make sure they were aware of what was happening and they have received no requests for a presentation or briefs.

**The Chair:** Thank you, Mr Coburn. We will now go to—

**Mr Bisson:** Chair, could I ask for a five-minute recess before we get started?

**The Chair:** Is it the wish of the committee to have a five-minute recess, bearing in my mind that we do have—

**Mr Bisson:** Time allocation says 4:30.

**The Chair:** At 4:30. Does that meet with the wish of the committee? OK, five minutes.

*The committee recessed from 1619 to 1625.*

**The Chair:** We'll now proceed with clause-by-clause consideration of Bill 62, NDP motion number 1.

**Mr Bisson:** We have a motion here—

**The Chair:** I'm sorry, you'll have to forgive me. I'm just a little green at this. Section 1, any amendments?

**Mr Bisson:** We have an amendment in the name of the NDP caucus and it's under section 1 of the bill, the City of Greater Sudbury Act, 1999.

I move that section 1 of the bill be amended by adding the following subsection:

“(0.1) The definition of ‘municipal area’ in section 1 of the bill is amended by striking out ‘Fraleck, Parkin, Aylmer, Mackelcan, Rathbun, Scadding.”

**The Chair:** I'm ruling that out of order, as the amendment seeks to amend definitions which are not open in Bill 62.

**Mr Bisson:** Chair, I have extreme difficulty with this, because the bill, as I understand it and as everybody else understands it, amends parts of Bill 25, which was the bill that created the new municipalities of Sudbury, Hamilton, Norfolk and Ottawa. What the government attempts to do by way of this bill is to come back and fix some of the problems that existed in the original legislation. There are a number of places where the original bill is being amended to fix problems that were created when the original bill was passed in this Legislature last fall.

What we're trying to do by way of this amendment is to make a change that is not only recommended by the Wahnapiatae First Nation but is also being recommended by the Sudbury transitional team. This is not something out of left field, something out on its own, something isolated. This is everybody—the member for Sudbury East, Shelley Martel; the Wahnapiatae First Nation people; the transition team of the new city of Sudbury—all agreeing that this should be done. I'd like to hear from the parliamentary assistant why, all of a sudden, they decided they're not going to accept amendments to fix problems

with the bill when they're pointed out by the opposition, or by the transitional team, for that matter.

**The Chair:** Mr Bisson, this is my ruling. As I said, I'm ruling it out of order because it does seek to amend definitions that are not open in Bill 62.

**Mr Bisson:** If the clerk of the committee or the parliamentary assistant, one or the other, can please assist us. The whole point of clause-by-clause is to fix problems with the bill. To the clerk of the committee: If we wanted to amend this legislation according to what has been requested by the Sudbury transitional team, where in the bill can we bring the amendment?

**The Chair:** Unfortunately, it's now just past 4:30 and I'm required, under orders of the day, to now move into clause-by-clause.

**Mr Bisson:** You're already in clause-by-clause, Chair. We've already started the clause-by-clause. That's why we're there. Normally clause-by-clause is to fix bills and make any changes to the bills that we think need to be fixed. I ask the question of the clerk—

**The Chair:** Mr Bisson, I will refer you to orders of the day—

**Mr Bisson:** I understand what you're going to say, that there is a closure motion that we can't bring any more amendments. But I want to ask a question of the clerk: Where in the bill could this be done?

**The Chair:** Are you prepared to respond to that?

**Clerk of the Committee:** Because that section has not been opened in the bill, the amendment cannot be moved to that section. It's out of order. The only way around that would have been to get unanimous consent from the committee to move such a motion.

**Mr Bisson:** It's something we know we can't get, because the minister has already said he doesn't want to agree.

It puts us in a heck of a position, where the transition team wants this to happen, the local member wants it to happen, the Wahnapiatae First Nation wants it to happen, but the because the government says, “No, no unanimous consent,” we're stuck in the situation where we're again making flawed legislation. I want to know from the parliamentary assistant, as we're having a general discussion around section 1, why it is that you would not want to fix problems that exist within your own bill. Can you please tell me?

**The Chair:** And I'm now ruling, Mr Bisson—

**Mr Bisson:** I heard you.

**The Chair:** —as it is 4:30, that there will be no further debate.

**Mr Bisson:** And we are on general discussion under section 1 of the bill.

**The Chair:** I've ruled that your motion is out of order, so we'll go to government motion number 2.

**Mr Bisson:** Chair, please. We are allowed to have a discussion around section 1 of the bill, are we not?

**The Chair:** No, not after 4:30.

**Mr Bisson:** Well, let me just say to the government side, with all due respect to the Chair, this is extremely frustrating. You bring legislation forward. There are

problems in your own bill. That's why you passed this bill, to fix the problems that you had. And then you time-allocate us to the point that we're not able to bring forward or deal with the issues as they present themselves. Is this a good way of running government? If it is, I'll tell you, we're in for deep trouble in this province.

**The Chair:** Mr Bisson, for the record, I will read the orders of the day, as follows.

**Mr Bisson:** Please do.

**The Chair:** "That, at 4:30 pm on that day, those amendments which have not been moved shall be deemed to have been moved, and the Chair of the Committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill, and any amendments thereto. Any division required shall be deferred until all remaining questions have been put and taken in succession with one 20-minute waiting period allowed pursuant to standing order 127(a)."

**Mr Coburn:** Madam Chair, in an attempt to be helpful, we would consent to having it brought forward to be voted on.

**Mr Bisson:** OK. I'm going to ask unanimous consent, because I hear it coming, to deal with the amendment to that section of the bill as I read.

**The Chair:** Again, I'm subject to—

**Mr Bisson:** This committee can do what it wants by unanimous consent.

**The Chair:** Well, is there unanimous consent?

**Mr Colle:** Yes, sure.

*Interjections.*

**The Chair:** OK.

**Mr Bisson:** Thank you. So I ask—

**The Chair:** So now we'll vote on it.

**Mr Bisson:** Yes. We're on our amendment, the original amendment.

To the parliamentary assistant, thank you for allowing us to bring that amendment forward. It is appreciated.

The general question I have—you've heard the presentations this morning—

**The Chair:** Mr Bisson, I'm sorry, you may have misunderstood.

Mr Coburn, it was my understanding that you asked that the vote be taken, that there be no further debate.

**Mr Coburn:** No further debate.

**The Chair:** We're just going to—

**Mr Bisson:** We're going to allow the amendment in and we're going to have a vote and we're not going to have a chance to discuss why it should be included?

**The Chair:** I will take a vote as to whether you wish to vote on the amendment. All in favour of the amendment?

**Mr Bisson:** A recorded vote, please.

**The Chair:** We'll have to consider that at the end; we'll hold that recorded vote.

**Mr Bisson:** Yes, all votes are stacked.

**The Chair:** Government motion number 2: All in favour?

**Mr Bisson:** Chair, can I hear the rationale of what the minister—

**The Chair:** No debate.

*Interruption.*

**The Chair:** Mr Sewell, if you're going to submit to any more outbursts like that, I shall ask you to leave.

*Interruption.*

**The Chair:** Mr Sewell, I'm asking you to please leave. You cannot—

*Interruption.*

**The Chair:** We'll take a five-minute recess until Mr Sewell leaves.

*The committee recessed from 1634 to 1640.*

**The Chair:** Members of the public, for any of you who interrupt the proceedings, I will have no option but to ask that you be removed.

**Mr DeFaria:** Madam Chair, the opposition members asked if we could hold off for a couple of minutes. They just stepped out.

**The Chair:** I think we've already had about eight minutes. I'll give one more minute.

*The committee recessed from 1641 to 1642.*

**The Chair:** We've had one minute, so we're going to proceed with a government motion.

Shall section 1 of the bill carry?

**Mrs Brenda Elliott (Guelph-Wellington):** That's amendment number 2?

**The Chair:** That's amendment number 2 on page 2. Carried? Carried.

Section 1 of the bill, page 3, an NDP motion: All in favour? Opposed? It does not carry.

Government motion number 4, subsection 1(5) of the bill, section 11.7 of the City of Greater Sudbury Act: Shall that carry? All in favour? That carries.

Government motion number 5, section 1 of the bill: I'm ruling that this amendment is out of order for the same reason as the NDP motion, page 1, which is that it seeks to amend a section of the act that is not open in Bill 62.

NDP motion number 6: I'm ruling that this amendment is out of order as it seeks to amend a section of the act that is not open in Bill 62 and seeks to allocate funds.

NDP motion number 7: I am ruling that this amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

We have a Liberal motion number 7a, subsection 1(7) of the bill, section 32.1 of the City of Greater Sudbury Act.

Shall the motion carry?

**Mr Coburn:** No.

**Mrs Elliott:** Madam Chair, which amendment was that again? I'm sorry.

**The Chair:** That was a Liberal motion number 7a, which is subsection 1(7) of the bill, section 32.1 of the City of Greater Sudbury Act. It should be marked 7a. It was in a separate package and the colour of the document is a little darker.

**Mrs Elliott:** Oh, yes.

**Mr Coburn:** Madam Chair, point of order.



**The Chair:** No points of order, sorry.

All in favour of 7a?

**Mr Coburn:** Of 7a? No.

**The Chair:** That does not carry.

Shall section 1, as amended, carry?

**Mrs Elliott:** Madam Chair, may I ask a question?

**The Chair:** There cannot be any debate on a deferment of the motion before us.

**Mrs Elliott:** On a point of process: If a change was required, is it possible to pass something by way of unanimous consent?

**The Chair:** Well, you heard my ruling.

**Mrs Elliott:** I understand.

**The Chair:** You did hear my ruling to Mr Bisson, and it has to stand.

We can't vote on the section, as amended, until the end, because there has been a request for a recorded vote.

**Mrs Elliott:** Oh, I see.

**The Chair:** We'll move to section 2, government motion 8, subsection 2(1) of the bill, section 13.7 of the Town of Haldimand Act.

Shall the motion carry? All in favour? Opposed? That carries.

NDP motion 9: I'm ruling this amendment out of order as it seeks to amend a section of the act that is not open in Bill 62 and also seeks to allocate public funds.

NDP motion 10: I'm ruling this amendment out of order as it seeks to amend a section of the act not open in Bill 62.

Government motion 11: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

Shall section 2, as amended, carry? All in favour? Opposed, if any? That carries.

Moving to section 3, government motion 12, subsection 3(4) of the bill, section 11.8 of the City of Hamilton Act, 1999: Shall the motion carry? All in favour? Opposed? That carries.

NDP motion 13: This amendment is out of order as it seeks to amend a section of the act that is not open in Bill 62 and seeks to allocate funds.

NDP motion 14: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

1650

Government motion number 15: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

We have Liberal motion number 15a, which again was added a bit later than the other motions. For members of committee, it's on a grey page, and it's subsection 3(6) of the bill, section 32.1 of the City of Hamilton Act.

Shall the motion carry? All in favour? Opposed? That does not carry.

All in favour of section 3, as amended? Opposed? That carries.

We'll move to section 4, government motion number 16, subsection 4(1) of the bill, section 13.7 of the Town of Norfolk Act, 1999.

Shall the motion carry?

**Mr Colle:** Madam Chair, on a point of order: Is that not out of order? It deals with financing.

**The Chair:** There cannot be any points of order after 4:30, and I have not ruled it out of order.

**Mr Bisson:** Which one? Number 16?

**Mr Colle:** Yes.

**The Chair:** There can be no discussion. Government motion number 16.

**Mr Colle:** But it's out of order.

**The Chair:** I've just ruled that there can be no debate.

Government motion number 16: Shall the motion carry? All in favour? Opposed? That carries.

NDP motion number 17: This amendment is out of order as it seeks to amend a section that is not open in Bill 62 and seeks to allocate funds.

NDP motion number 18: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

Still under section 4, government motion number 19: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

Shall section 4, as amended, carry? All in favour? Opposed, if any? That carries.

Moving to section 5, NDP motion number 20. This amendment is out of order, as it seeks to amend a section of the act not open in Bill 62.

Government motion number 21, subsection 5(7) of the bill, subsection 12.3(1) of the City of Ottawa Act, 1999: Shall the motion carry? All in favour? Opposed, if any? That carries.

Government motion number 22, subsection 5(7) of the bill: Shall the motion carry? All in favour? Opposed? That carries.

NDP motion number 23: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62 and seeks to allocate funds.

NDP motion number 24: This amendment is out of order as it seeks to amend a section of the act not open in Bill 62.

Number 25: This amendment is out of order as it seeks to amend a section of the act that is not open in Bill 62.

We have one more. This is a Liberal motion, 25a, subsection 5(9) of the bill, section 33.1 of the City of Ottawa Act, 1999. Again, it's on the grey papers that were sent later.

Shall the motion carry? All in favour? Opposed? It does not carry.

Shall section 5, as amended, carry?

All in favour? Opposed, if any? That carries.

Shall sections 6 through 11 carry?

All in favour? Opposed? That carries.

Moving to section 12, we have government motion number 26. That's section 12 of the bill, amending the French Language Services Act.

All in favour? Opposed? That carries.

**Mr Bisson:** Excuse me, Chair. The one that was just voted on previously, what was the number?

**The Chair:** That was government motion number 26.

**Mr Bisson:** That's what I thought. Thank you.

**The Chair:** Shall section 12, as amended, carry? All in favour? Opposed, if any? That carries.

Shall sections 13 and 14, as amended, carry? All in favour? Opposed, if any? That carries.

Section 15 of the bill, as before you, NDP motion 27: Shall the motion carry?

All in favour? Opposed? That does not carry.

Shall section 15 carry? All in favour? Opposed? That carries.

Shall sections 16 through 27 carry? All in favour? Opposed? They carry.

1700

Now we're up to Liberal motion number 28, section 28 of the bill, clause 8.1(1)(a) of the Municipal Elections Act, 1996.

Shall the motion carry? All in favour? Opposed? That does not carry.

Liberal motion number 29, section 28 of the bill, subsection 8.1(1.1) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed, if any? That does not carry.

Liberal motion number 30, section 28 of the bill, subsection 8.1(2) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed? That does not carry.

Liberal motion number 31, section 28 of the bill, subsection 8.1(2) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed? That does not carry.

Liberal motion number 32, section 28 of the bill, subsections 8.1(2.1) and (2.2) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed? That does not carry.

Liberal motion number 33, section 28 of the bill: Shall the motion carry?

All in favour? Opposed? That does not carry.

Liberal motion number 34, section 28 of the bill, subsection 8.1(6) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed? That does not carry.

Liberal motion number 35, section 28 of the bill, clause 8.2(1)(a) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed? That does not carry.

Liberal motion number 36, section 28 of the bill, subsection 8.3(5) of the Municipal Elections Act: Shall the motion carry?

All in favour? Opposed? That does not carry.

Shall section 28 carry?

All in favour?

*Interjections.*

**The Chair:** Section 28.

**Mrs Elliott:** She's doing the whole section.

**Interjection:** OK. Carried.

**The Chair:** All in favour?

**Mr Bisson:** They voted against it a minute ago. Chair, they voted against this section of the bill. It's defeated. End of story.

**Mrs Elliott:** No, we voted for the section.

**Mr Bisson:** No, you didn't. You voted against. At least if you're going to have time allocation, have the rules be consistent. If you mess up, it's your fault.

**The Chair:** OK. We'll move to section 29.

**Mr Bisson:** Chair, they voted against that section of the bill.

**The Chair:** I didn't see them vote against that section.

**Mr Bisson:** They voted against that section of the bill, Madam Chair, and if it's good for the goose, it's good for the gander. If you're going to have time allocation motions and you jack around the rules and all of a sudden you make an error in your voting procedure—come on.

**The Chair:** Shall sections 29 through 31 carry?

All in favour? Opposed? That carries.

Section 32 of the bill, Liberal motion 37: Shall the motion carry? All in favour? Opposed? That does not carry.

Shall section 32 carry? All in favour? Opposed?

**Mr Bisson:** You almost got me on that one. You came that close. You see, I was paying attention and you weren't.

**The Chair:** Shall section 33 carry?

**Mr Bisson:** No.

**Mrs Elliott:** No.

**The Chair:** All in favour?

**Mr Bisson:** Chair, you called and they said no. That's the end of it. Nobody is forced—

**The Chair:** I didn't take a vote on it.

**Mr Bisson:** No, you've already done it twice. Just because they're not paying attention over there doesn't mean you give them a second chance.

**The Chair:** Mr Bisson, I'm calling the vote.

**Mr Bisson:** Chair, the rules are, you ask, "Does the section carry?"—

**The Chair:** Shall section 33 carry?

**Mr Bisson:** —and they said no and I said no and nobody said anything after and that's the end of the section.

**The Chair:** Mr Bisson, I'm calling, all in favour of section 33?

**Mr Bisson:** If they fall asleep, it's not my fault.

**The Chair:** All in favour of section 33?

**Mr Bisson:** Oh, it's a second time on the vote now. Chair, what seems fair? You can have a time allocation motion, which is bad enough—

**The Chair:** We'll move to section 34, government motion 38, subsection 34(1) of the bill, subsection 68(1) of the Municipal Elections Act. Shall the motion carry?

**Mr Coburn:** Yes.

**Mr Bisson:** Oh, you finally woke up over there.

**The Chair:** All in favour? Opposed, if any?

**Mr Bisson:** Chair, this is really irregular.

**The Chair:** NDP motion number 39—

**Mr Bisson:** Let me guess what you're going to do now.

**The Chair:** —subsection 34(1) of the bill, paragraph 4 of subsection 68(1) of the Municipal Elections Act, 1996: Shall the motion carry?

**Mr Bisson:** Yes.

**Mrs Elliott:** No.



**The Chair:** All in favour? Opposed? That does not carry.

**Mr Bisson:** I'm not falling asleep on my amendments.

**Mrs Elliott:** Neither are we.

**Mr Bisson:** Just because they fall asleep on theirs, the Chair's got to come back and fix up their—we have to have an alarm clock over there to keep them awake, for God's sake.

**The Chair:** Mr Bisson, please.

**Mr Bisson:** If I did that as a Chair, they'd run me off the chair, but because they're the majority on the other side—

**The Chair:** Mr Bisson—

**Mr Bisson:** Well, it is tough to—

**The Chair:** Mr Bisson—

**Mr Bisson:** It's not my fault that they messed up.

**Mrs Elliott:** Madam Chair, it's very difficult to hear you with the interruptions.

**Mr Bisson:** Oh, please. It's very difficult to talk over here with time allocation.

**The Chair:** Government motion number 40, subsection 34(2) of the bill: Shall the motion carry? All in favour? Opposed? That carries.

**Mr Bisson:** Thank you.

**The Chair:** Shall section 34, as amended, carry? All in favour? Opposed? That carries.

Section 35, government motion 41, section 35 of the bill, clause 77(c) of the Municipal Elections Act: Shall the motion carry? All in favour? Opposed? That carries.

**Mr Bisson:** See, I almost made a mistake but I caught it. You have to be paying attention, Brenda. That's the issue.

It's partly your fault, Chair, but I think you're doing a great job, except that you're going to change the rules—

**The Chair:** Shall section 35, as amended, carry? All in favour? Opposed? That carries.

**Mr Bisson:** I think we need an accountability act for government members and Chairs so that we see all their decisions and we're able to take them into account.

**The Chair:** Section 36, government motion 42, subsection—

**Mr Bisson:** What do you think? Do you think it's a good idea? An accountability of government members act.

**The Chair:** Mr Bisson, please.

**Mr Bisson:** Well, I just think it's a—

**The Chair:** Subsection 36(2) of the bill, subsection 78(3) of the Municipal Elections Act: Shall the motion carry? All in favour? Opposed? That carries.

Shall section 36, as amended, carry? All in favour? Opposed? That carries.

Section 37, government motion 43: Shall the motion carry? All in favour? Opposed, if any? Carried.

Shall section 37, as amended, carry? All in favour? Opposed? That carries.

1710

Shall section 38 carry? All in favour? Opposed? Carried.

Section 39, government motion 44: Shall the motion carry? All in favour? Opposed? That carries.

Shall section 39, as amended, carry? All in favour? Opposed? That carries.

Section 40 of the bill, Liberal motion 45: Shall the motion carry?

**Mr Bisson:** Is that a Liberal amendment, Madam Chair?

**The Chair:** Liberal amendment. All in favour? Opposed? That does not carry.

Shall section 40 carry? All in favour? Opposed? That carries.

Section 41: Shall section 41 carry? All in favour? Opposed? That carries.

Section 42: Shall section 42 carry? All in favour? Opposed? That's unanimous.

Section 43: Shall section 43 carry? All in favour? Opposed? That carries.

Section 44: Liberal motion 46, section 44 of the bill, subsection (7): Shall the motion carry? All in favour? Opposed? That does not carry.

Shall section 44 carry? All in favour? Opposed? That carries.

Page 47, NDP motion, which is section 7 of the Town of Moosonee Act, 2000: Shall the motion carry?

**Mrs Elliott:** No.

**Mr Bisson:** I don't believe that's right. The parliamentary assistant said he supported that.

**The Chair:** Ladies and gentlemen, sorry. Members of the committee—

**Mr Bisson:** Madam Chair, I want a recorded vote on this one.

**The Chair:** You want a recorded vote?

**Mr Bisson:** I want a recorded vote because he said he supported it. You said, parliamentary assistant, that you supported that amendment.

**The Chair:** We'll hold that until the end, as a recorded vote.

Section 45, the short title: Shall the motion carry?

**Mr Coburn:** Madam Chair, can I request unanimous consent to reopen sections 1, 2, 3, 4 and 5?

**The Chair:** No, I'm sorry, you can't.

**Mr Bisson:** You can do anything you want with unanimous consent.

**The Chair:** No.

**Mr Bisson:** Let him ask. I want the pleasure of telling him no.

**The Chair:** Mr Bisson, if the rules apply to you, they also apply to every member of this committee.

We'll move to section 45, the short title. Shall the motion carry?

All in favour? Opposed? That carries.

We're going back now to requests for recorded votes.

An NDP motion on section 1 of the bill, City of Greater Sudbury Act, 1999: Shall the motion carry?

**Ayes**

Bisson.

**Nays**

Coburn, DeFaria, Elliott, Guzzo.

**The Chair:** Shall section 1, as amended, carry?

All in favour? Opposed? That carries.

The next request for a recorded vote is on schedule 7, Town of Moosonee Act. Shall the motion carry?

**Ayes**

Bisson.

**Nays**

Coburn, DeFaria, Elliott, Guzzo.

**The Chair:** Shall the schedule carry?

All in favour? Opposed? That carries.

Shall the long title of the bill carry?

All in favour? Opposed? That carries.

Shall Bill 62, as amended, carry?

All in favour? Opposed? That carries.

Shall I report the bill, as amended, to the House?

All in favour? Opposed? That carries.

Do I have a motion to adjourn?

**Mrs Elliott:** So moved, Madam Chair.

**The Chair:** This committee is adjourned.

*The committee adjourned at 1719.*





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Ms Lucinda Mifsud, legislative counsel

Mr Avrum Fenson, research officer, Research and Information Services



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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 16 May 2000

# Journal des débats (Hansard)

Mardi 16 mai 2000

## Standing committee on justice and social policy

Subcommittee report

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(Construction Industry), 2000

## Comité permanent de la justice et des affaires sociales

Rapport du sous-comité

Loi de 2000 modifiant la Loi  
sur les relations de travail  
(industrie de la construction)



Chair: Marilyn Mushinski  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Tuesday 16 May 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mardi 16 mai 2000

*The committee met at 1614 in room 151.*

## SUBCOMMITTEE REPORT

**The Chair (Ms Marilyn Mushinski (Scarborough Centre)):** I call the meeting to order. The first item of business is the subcommittee report on Bill 69. Do I have a motion to read the report into the record?

**Mr Rick Bartolucci (Sudbury):** I move that the summary of decisions made at the subcommittee on the committee business be now read into the record.

Your subcommittee on committee business met on Wednesday, May 10, 2000, and recommends the following with respect to Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry:

That the committee intends to meet for the purpose of conducting public hearings in Toronto on May 16, 17 and 18 from 3:30 pm to 6 pm and tentatively in Sudbury—

**Mr David Christopherson (Hamilton West):** Dispense.

**Mr Bartolucci:** Dispense.

**The Chair:** Carried.

LABOUR RELATIONS AMENDMENT ACT  
(CONSTRUCTION INDUSTRY), 2000LOI DE 2000 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL  
(INDUSTRIE DE LA CONSTRUCTION)

Consideration of Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry / Projet de loi 69, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui a trait à l'industrie de la construction.

**The Chair:** Ladies and gentlemen, first of all, I wish to extend my apologies for the delay in starting this meeting. Unfortunately, until orders of the day are read in the House, we're not able to start. So, without further ado, we will move directly to opening remarks by the Minister of Labour.

**Mr Bartolucci:** I believe we have unanimous consent from all three parties to forgo the opening remarks by the Minister of Labour by the critic for the official opposition and by the critic of the third party, and move directly into deputations.

**The Chair:** Is that agreed? OK, then we'll move directly into delegations, witnesses.

TORONTO-CENTRAL ONTARIO BUILDING  
AND CONSTRUCTION TRADES COUNCIL

**The Chair:** The first witness is Mr John Cartwright. I should say, ladies and gentlemen, that we have 10 minutes for each witness. I will be adhering to that fairly strictly this afternoon because of the time delay. If you take the full 10 minutes, that's fine, but if there are a few minutes left after your presentation, I will allow some time for questions from members of the committee.

Good afternoon, Mr Cartwright.

**Mr John Cartwright:** Good afternoon.

I can't get over the interesting time in the last number of months leading up to these hearings and this bill. My name is John Cartwright. I'm the business manager of the Toronto-Central Ontario Building and Construction Trades Council. With me is Gary White, who's a business representative for the council.

Our council represents over 45,000 tradesmen and tradeswomen in the greater Toronto area, and we think it's important for the committee to understand one thing: The construction workforce in the greater Toronto area is the most productive construction workforce in the world. That's not something we're saying because we want to say it; it's something that our contractors who work around the world come back and tell us is the case. So we think it's important, when the government or the opposition parties look at this bill or any labour law changes, that they understand that you should not endanger that workforce either through what you're going to do with Bill 69 or any future labour law changes.

I've had the fortune—or had the misfortune—of being probably the only person at both sets of industry negotiations, the residential industry and the ICI sector, that have led to the amendments in Bill 69. It's something I look at and say we can live with some of the amendments, largely because the alternatives seem to be a demand by extremist employers to remove section 1(4) of the act or do other such detrimental things to our members.

But there are some amendments being proposed that we find deeply disturbing. The main one is the removal of the effective right to strike for workers in the residential industry. The notion of a 45-day window, which



was arrived at arbitrarily, means that our members are not going to be able to withhold their labour in any effective way and essentially removes that right to strike, which you know is guaranteed under the ILO conventions for all workers, particularly in the private sector. We're not aware that this has ever been done before in this province.

We're concerned about the arbitration process that's going to interfere in the ICI existing collective agreements, where there was an understanding that the words "significant competitive disadvantage" were going to be part of the test in order to open up those agreements. The word "significant" is not found in the legislation, and we think that creates far too wide a loophole that may be abused.

We're very concerned about the establishment of something called "regional employer organizations" that would be deemed by cabinet without any formal accountability to our industry or to anybody else, and the ability of employers in the ICI arbitration process to present multiple final offers to the arbitrator.

There are a number of other areas that we've suggested are things that also should be amended in the bill. They are listed in our submission that's in front of you.

1620

We spend most of our time talking about removing the right to strike in the private sector. I was at the table through this entire piece, and we had a situation where the apartment builders came and said, "We don't want as many strikes," and the government came and said: "We don't want as many strikes. What are you going to do about it?" The builder said, "Let's have a mandatory arbitration process kick in after 60 days." You have a strike window of only 60 days and then you lose the right to strike. You must go back to work and arbitration kicks in.

It's interesting because everybody said that doesn't make any sense, that all you would do is ensure that builders would schedule around that period of time. It's a fixed period of time, from May 1 for 60 days at that point, and they would simply schedule around that. All you do is reduce, actually, the production of homes. As well, you would ensure that unions ended up exercising the right to strike immediately on May 1 because they didn't want to lose any pressure they would have on the employers in order to come to a meaningful negotiated deal.

What do we end up with? Not 60 days; in fact, we end up with 45 days, which is completely unacceptable. We think that sets a very dangerous precedent in labour law for the private sector in this province. We're very concerned about it. We're concerned because it strips the right to strike from our members, and that is effectively the only thing workers have in this society to ensure that they have a better deal from employers.

We're concerned because of where it takes us: to mandatory arbitration. It's ironic that the Electrical Contractors Association of Ontario, who have been involved with the IBEW in arbitrated settlements in the ICI sector with their principal agreement in the last three

rounds of bargaining, are the very people who have been demanding that massive changes be made to our labour law because the results of that arbitration were untenable. We think it's very mistaken for anybody to believe that mandatory arbitration is going to resolve serious labour relations differences. We also think that if you try and force arbitration on workers in the residential industry, they will vote with their feet if they feel that's unfair.

The word "significant" in the ICI sector arbitration is going to be dealt with by quite a number of speakers. I'm not going to spend a lot of time on that, other than to say that our council and myself agreed that there needed to be some flexibility brought into the ICI bargaining scheme, but we don't want to see flexibility replaced by abuse. We want to ensure that if there is going to be an arbitration process in place, that at the end of the day that's not used as a process by employers to gang up and continually throw demands for concessions and reductions in rates and wages one time after the other regardless of the significance of the collective agreement as it applies to the industry. The notion that they can come back every six months is quite simply flawed. Our industry doesn't shift its behaviour in a six-month period. You don't notice a change in the tendering over a short six-month period.

Let me talk about related persons for a second. The first labour board case I ever dealt with, it took the accountant of the employer half a day in front of the labour board to explain all the interrelated corporations that individual owned. They were all in the names of his wife, his children, his nephews or his nieces. We're very concerned that if you take that out of the position altogether, you will not get the true picture.

What's missing from Bill 69 is key, and that's about justice for workers. Since Bill 31 came into place, we know of five contractors who have fired workers during organizing drives. I have a list of them here if there's any question about it. People might want to refer to this later on. I'll leave that with the committee.

There's nothing in this bill that changes the balance of power, where intimidation is the name of the game right now in the construction industry, when workers try to organize. Imagine workers going there, thinking they have the right under law to sign a card to join a union, and finding themselves fired. In the case of the Drycore 10, they were fired on February 3. There still has not been a date set in front of the labour board. That didn't happen just once because of a bad employer; that has happened time after time in this province.

The government had the opportunity to change that, to bring back automatic certification in the construction industry, at least, where there are extreme cases of unfair labour practice. They have not brought that back in. Instead, we hear that at a later date they may bring in a possibility for employers to intimidate workers even more. I'm going to leave that list of these contractors for this committee.

Bill 69 is supposed to be about fixing problems in the industry. You can't fix problems in the industry if workers are being told that if they consider joining a

union they'll be fired or their company will double-breast and set up an alternative non-union spinoff. That is not right. We have sent that message to the Premier, to the minister and to other people in the caucus. We will continue to talk about the injustice of workers being fired because they want to choose a union, and we will continue to demand that this government do something about it, rather than continuously in this legislative program take away rights of workers and empower employers to drive wages down and have people working for less. That's our submission.

**The Chair:** Thank you, Mr Cartwright. That is your full 10 minutes, so there isn't time for questions.

**Mr Cartwright:** Could I leave this for the committee, then?

**The Chair:** Yes, please do.

**Mr Bartolucci:** Madam Chair, will we get copies of those?

**The Chair:** Yes, by all means. Each member of committee will get copies.

Anything that is submitted to the committee will be distributed to all committee members.

#### INTERNORTH CONSTRUCTION

**The Chair:** Mr Richer, Internorth Construction.

**Mr Paul Richer:** Madam Chair, members of the committee, I'd like to thank you for the opportunity provided to me today to address you. My name is Paul Richer. I am the vice-president of corporate services with Internorth Construction. Today I'm speaking not only on behalf of Internorth but on behalf of eight general contractors in the province of Ontario that remain bound to what has become known as the Toronto and central Ontario working agreement.

To give you a little background—and certainly there's more information contained in the handout; I'm not going to read it to you verbatim—these agreements were signed in the 1950s and 1960s primarily. The agreement makes clear reference that it's to be bound to those trades that are members of the building trades council and whose agreements are on file with the builders' association. At the time those agreements were filed, there were only six agreements on file with the builders' exchange. Those were the six civil trades agreements—carpenters, labourers, operating engineers, bricklayers, cement masons and reinforcing steel placers.

The agreement was unenforceable as a voluntary recognition agreement, and that did not change until there was legislative change in 1978 through 1980, at the time the provincial bargaining came in. The change at that time changed the definition of the building trades council and granted it the status of a union and an ability to have it recognized as a union and to grant voluntary recognition to it. The labour board took that change and applied it retroactively against agreements that had been signed in the 1950s and 1960s. In some cases they applied it retroactively for 30 years.

In 1982, when the process of the labour board started, there were 288 companies bound to the agreement. A list

of those companies is included in the handout; it's a list that was provided at the time to the construction association by the building trades council. The remaining eight contractors that are bound today are Ellis-Don, Eastern, Vanbots, Internorth, Harbridge and Cross, Lisgar Construction, Tom Jones Construction and Morocas. These are among the oldest contractors in Ontario. The balance of the contractors have shut down, moved out of the province or gone broke. They just literally do not exist any more as a working entity in this province, and the primary reason is uncompetitiveness, caused by the wall-to-wall agreement.

During the recent negotiations, which I attended, and after the negotiations concluded and in subsequent meetings with the minister and in public meetings, the senior officials of the Ministry of Labour put forward a proposal on February 3, 2000. That proposal is contained in the handout. The proposal included relief for building trade general contractors outside labour board area 8, which is a geographic area covered roughly by Ajax to the east, Milton to the west and looping around Bradford and back down. The relief was supported by the ministry and by its officials. At the employers' meetings in London, Thunder Bay and Ottawa the week of April 10, representatives of the ministry confirmed that this change would be contained in the pending legislation.

#### 1630

Twice during the week of May 1, Premier Harris stated that he supports relief outside board area 8 and would support such an amendment. The relief provided in Bill 69 does not include the promised relief outside board area 8. The legislation provides no relief for the remaining general contractors bound to the working agreement. The proposed enabling framework is restricted as to what portions of the collective agreements relief can be sought from, and that certainly doesn't include subcontracting clauses.

It is our position that the legislation must be amended to reflect the February 3, 2000, ministry proposal paper. If that recognition, which the paper recognizes is to be granted voluntarily, is not granted voluntarily, then there should be some sort of legislative amendment to enforce the relief for board area 8.

Bill 69 is a step forward, there's no question about that. It would be a more significant step forward and a much more meaningful step if it was inclusive of all of the February 3, 2000, ministry proposals.

You will hear from employer groups that will come in and say: "The change requested outside board area 8 is not fair. We have collective agreements that we are signatory to but haven't hired anybody for a number of years and we want relief for them."

The difference between those contractors and the eight remaining building trades general contractors is that the agreements we are seeking relief from are agreements where we have never hired employees, we have never been signatory voluntarily to the union, they have never brought us to the labour board and certified us. Their reliance is only on this building trades agreement which



was given new meaning in 1980 and applied retroactively.

The general contractors affected are the oldest in the province. They've chosen for many decades to base their operations in this province and would like to continue to do so in the future. They should not be forced out of the province by antiquated laws and by antiquated OLRB decisions.

I'd like to thank you again for the opportunity to present. Those are my comments. If there are any questions, I'd be happy to answer them.

**The Chair:** Thank you, Mr Richer. There are about two minutes, perhaps three, for questions. Do the members of the committee have any questions?

**Mr Bartolucci:** Thank you, Mr Richer, for your presentation. You're obviously a person who has some concerns with regard to the multiple offers that can be made in the arbitration process.

**Mr Richer:** I'm not sure what you mean by the multiple offers. There's a framework that has been put in place, that we are quite anxious to have come into place, that we can use where it is available to us. What I'm saying is, as these eight general contractors, that framework is not going to afford to us the relief that we require.

**Mr Christopherson:** Thank you for your presentation.

**The Chair:** About one minute, Mr Christopherson.

**Mr Christopherson:** Was it your understanding that if there wasn't an agreement reached that 1(4) was going to be removed, or was it your understanding that if negotiations failed, the status quo would just continue?

**Mr Richer:** No, the deletion of subsection 1(4) was what the coalition or the members of the coalition who are representing the employers were requesting. There was obviously a lesser position being put forward by the union. We were always told by the government that in the event that something could not be negotiated, either the high-low or something in between, the government would impose legislation and a solution as they saw fit if the parties couldn't agree.

**Mr Christopherson:** You realize the minister says that's not the case on the floor of the Legislature and he said that's not what happened?

**Mr Richer:** I'm not aware of what the minister said in the Legislature.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Mr Richer, you mentioned that these signatory agreements occurred approximately 20 years ago.

**Mr Richer:** In some cases, 30.

**Mr Beaubien:** How did they work? How did those agreements perform in the workplace in the first 15 years of the agreement?

**Mr Richer:** Beyond the civil trade agreements, which we were all directly signatory to, we granted voluntary recognition to general contractors or the unions certified us at the labour board. With those trades, there was no qualification whatsoever. We were bound to them. If we violated the agreement, we were subject to penalty. Those agreements were not relied upon by any of the other trades that I am aware of prior to the legislative

change I mentioned, in the early 1980s, that allowed the board to give this an interpretation of a voluntary recognition agreement. Until that point in time, there was no claim by these trades against the contractors that I'm aware of.

## CARPENTERS' DISTRICT COUNCIL OF ONTARIO

**The Chair:** Mr Bud Calligan, Carpenters' District Council of Ontario. Go ahead.

**Mr Bud Calligan:** Good afternoon. My name is Bud Calligan and I am the secretary-treasurer of the Carpenters' District Council of Ontario. On behalf of the membership, I represent over 14,000 skilled carpenters, drywallers, floor covering installers, caulkers and pile drivers in the construction industry in Ontario. The Carpenters' District Council of Ontario views Bill 69 as an alternative to the proposals made by certain employers to repeal or weaken section 1(4) of the Labour Relations Act.

Repealing or weakening section 1(4) would have triggered a return to the extreme levels of conflict that characterized the construction industry prior to adoption of the Davis amendments, which included section 1(4). In our view, Bill 69 reflects an industry-based approach to addressing the competitiveness issue raised by certain employers. However, while we do not oppose the general direction of Bill 69, we believe the bill requires amendments if it is to obtain the desired outcome.

I was one of the six labour representatives who met with the contractors group and the Ministry of Labour staff to try to find an industry solution to the competitive issue raised by the employers. The carpenters' union has had an enabling clause in its provincial agreement since the early 1990s to address the competitive issue. We know from past experience that where the amending clause is used it has been successful in making our contractors competitive. The amendments suggested in our brief are constructive amendments that we know from past experience will help to facilitate Bill 69 and make it a workable industry solution. Our brief on Bill 69 is a lengthy one and similar to the briefs you'll receive from some of the other labour groups.

Given our time constraints today, I will only address two of the points in the submissions. First is the area of section 163.2 to section 163.4 of Bill 69, regarding designated regional employers' organizations. It is at pages 7 to 11 of our brief. This section creates a new and, in our view, unnecessary entity. It will undermine existing local employers' associations and conventional employer bargaining agencies' authority. The rationale for introducing this new entity, as we understand it, was to cover areas where there was no local employers' association. In the few instances where this is the case, the employer bargaining agency could assume the role of the local associations. Including this in Bill 69 will only add to the confusion and undermine the workability of the whole process. We have made specific recommen-

dations regarding this at page 10 of the brief. I would ask that you consider the recommendations that have been put forth regarding this issue.

1640

The second item of the bill I would like to address is subsection 163.2(4), which deals with the subject matter of proposed amendments. It can be found at pages 11 and 10 of our brief. Subsection 163.2(4) sets out the provisions of a collective agreement which may be amended under the procedures set out in the bill. The section reads in part:

"The application may seek only amendments that concern the following matters:

"1. Wages, including overtime pay and shift differentials and benefits."

Benefits should not be included in the amendable items. Health, welfare and pension plan benefits are part of multi-employer plans and are specific amounts of hourly contributions from the collective agreements. Any reduction or change in these amounts could jeopardize benefits for an employee and their family members. Benefits should, therefore, not be subject to any amendments under Bill 69.

I have very briefly touched on only two items contained in the brief. I respectfully ask that you carefully consider all the amendments offered in the brief. They are constructive amendments and are meant to make Bill 69 workable.

Thank you for your time. I would be pleased to answer any questions.

**The Chair:** Thank you, Mr Calligan. We have time for about three questions.

**Mr Carl DeFaria (Mississauga East):** I understand that you represent the council of carpenters and skilled workers. Do you know the position of people like Tony Dionisio from local 183? I'd like to know if their position would be similar to yours.

**Mr Calligan:** I can't speak for that. I believe the Labourers are making a presentation later on today.

**Mr DeFaria:** Thank you.

**Mr Bartolucci:** I'd like to go back to section 163.4(4). Could you outline to the committee why benefits are so important? Could you maybe outline the social costs attached to excluding benefits from the process?

**Mr Calligan:** We believe that if there's any amending done to the collective agreement, it should be done to the hourly wage package or the other items in there and not the benefit package. That should be left to the sole discretion of the union itself and the trustees. Our benefit plans are paramount to making sure that our members and their families receive proper eye care and drug benefit and dental plans, and that our members receive a decent pension plan. If those items are subject to benefit reductions, that could have a catastrophic effect on our members over the long term, and even the short term on some of the health and welfare benefits. Therefore, any reduction on that could upset all the health and welfare plans for all the local unions right across the province.

**Mr Bartolucci:** Absolutely, and in the long term cost the province of Ontario more money.

**Mr Calligan:** Correct.

**Mr Bartolucci:** Thank you very much.

**Mr Christopherson:** Bud, thank you for your presentation. You can appreciate that while this hasn't been as difficult for my caucus and me compared to what you've gone through on all of this, it hasn't been easy for us either, understanding where you are as labour leaders. This is another piece of anti-labour legislation in its totality, right now, as it is on the floor of the legislature, so I'm not trying to put you in an awkward spot but I am trying to get out in the open all the dynamics at play.

Do you have any undertaking right now from the government that they're seriously considering any of these amendments you're putting forward? Before you answer, I ask for this reason, to put my cards on the table: If they're not indicating to you that they're prepared to listen and make any amendments, then right now the Minister of Labour is running around town saying, first, that 1(4) is not a threat to you, that you voluntarily want all these things to happen; and second, that with the undertaking he has to get this through the House, unless he hears something from the union leaders today or in the ensuing days to follow that changes need to be made or else, quite frankly I see no reason why Stockwell in his current frame of mind would make any changes.

So we need to get a sense of what dynamics the labour leaders are bringing to the table vis-à-vis these changes, particularly the ones that John pointed out, which from their recollection were not even part of any original agreement.

**Mr Calligan:** The minister wants an industry solution to the perceived problem of competitiveness in the province. For anything to work in the construction industry, there must be co-operation from the industry itself—from management and from labour.

The amendments we have put forward, as I said, are constructive amendments. If the government wants this to work, they need to make it work. Without the amendments we've asked for, I don't know whether this will be workable. We need something that is relatively simple to work with. From our past experience where we've dealt with amending clauses and stabilization funds, and those type of issues, we know what makes them work and what doesn't make them work. As I said, the amendments we have asked for are not way out of whack. They are constructive amendments. They will make this work. Without them, though, it's very much up to question.

**Mr Christopherson:** On the matter that you raised about section 163.2 in terms of what the sub-agreement can change, and you're mentioning benefits, I raised on the floor of the Legislature the issue of items 2 and 3, which talk about hiring hall practices. At the time, when we were talking on the floor, both publicly and privately, the minister said that there are other clauses in here that mandate that even though sub-agreements have to contain these hiring practices, I wasn't as certain that that's the case. But I'm not a lawyer. I asked the minister to check. He had lawyers looking at it that night. I have yet to hear anything.



So what I want to do on this issue, if you'll allow it, Chair, is ask the parliamentary assistant if he has the answer. I appreciate that you may not today, and if you don't, would you give us an undertaking to give us the government's legal interpretation of whether or not any hiring hall practices, as designated in 2 and 3, would be subject to change in a sub-agreement?

**The Chair:** As long as it's 30 seconds or less.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** I don't have any answers today, but the minister will be speaking to us later on. Perhaps you can put that question at that time.

**Mr Christopherson:** No, he won't.

**Mr Gill:** He's not going to be speaking to us, Madam Chair?

**Mr Christopherson:** Are you out of the loop?

**Mr Gill:** OK. In that case, I will try and get the answer in due course.

**Mr Christopherson:** By "due course"—before these committee hearings are concluded? That's fair.

**Mr Gill:** Before the final submission, which I think is May 25.

**Mr Christopherson:** No, no, before the hearings are concluded, because we need to know whether or not it's in there. I'm not playing any games here. He said he was going to give an undertaking. Chris just—

**Mr Gill:** I think it's May 25, as we agreed. That is the final submissions?

**Mr Christopherson:** Yes.

**Mr Gill:** So by then we'll try and get some answers.

**Mr Christopherson:** It shouldn't take that long, but all right.

**The Chair:** We really do have to move along, Mr Christopherson, in fairness to everyone here. Thank you very much, Mr Calligan.

#### UA LOCAL 463

**The Chair:** The next speaker is Mr Larry Cann, UA Local 463.

**Mr Larry Cann:** Thank you for the opportunity to speak. Like the chairperson said, my name's Larry Cann. I am a business manager for a local plumbers union in the Oshawa area and I'll be speaking in support of the brief presented by the construction unions of Ontario, and also the Toronto-central Ontario building trades and the residential portion that John Cartwright spoke about in regard to the removal of our right to strike, because there are a lot of housing projects and so on and so forth that are going on in what I guess I'll call the Durham region.

As the previous speaker said, the brief is long so I'm going to be speaking particularly to pages 3, 4, 5 and 6. It's under A. It's the section on the changes under 1(4), the single employer, and section 69, the successor employer.

Under the proposed bill, the labour board has been directed to disregard "any relationship by way of blood, marriage or adoption" between individuals having a direct or indirect involvement with the first entity "and an

individual having a direct or indirect involvement with any of the other entities" in subsection 1(4), section 69 applications—and in the bill it's subsections 126(3)1 and 126(5)1—and to only consider three particular factors if the applicant claims relief under section 1(4)-subsection 69, which are the length of any hiatus between the activities of a key individual with the entities in question; whether the key individual occupied a formal management role in the first entity; and whether the first entity was able to carry on business "without substantial disruption or loss when he ceased to be involved with that entity."

#### 1650

In the brief there's a sub-title, "Difficulties with the Proposed Amendments in Bill 69." Like it states, there's an extensive jurisprudence before the Ontario Labour Relations Board on the effect of pre-existing relationships, including family relationships, on related and successor employer applications. In a recent decision dated April 27, 2000, the Corporation of the Town of Ajax versus CAW Canada et al, the dissenting judges of the Supreme Court of Canada at page 4 quoted from the 1979 decision of the board in Metropolitan Parking Inc [1979] OLRB Rep 1193 as follows:

"The board has always been especially sensitive to any pre-existing corporate, commercial or familial relationship between the predecessor and the alleged successor; or between the predecessor, the alleged successor and a third party. Transactions in these circumstances require a more careful examination of the business realities than do transfers between two previously unrelated business entities. The presence of a pre-existing relationship may suggest an artificial transaction designed to avoid bargaining obligations"—which most of us in the building trades have been involved in at one time or the other—"or (more commonly) there may be a transaction in the nature of a business reorganization which does not alter the essential attributes of the employer-employee relationship, and which should not, having regard to the purpose of section 55 [now section 69] disturb the collectively bargained framework for that relationship...."

"It would be incorrect to make this consideration a decisive 'test' for successorship; but where there is a pre-existing corporate connection between the predecessor and the successor the board has been disposed to infer a 'transfer' if there is the slightest evidence of such transaction.... As a practical matter, it is much more difficult to sustain the contention that one has not acquired a predecessor's business but merely founded a new, independent, but similar, business serving the same market."

That may be fine at McDonald's, but in the construction industry it normally doesn't take place.

The other dissent observes that this concern with pre-existing relationships arises from the board's desire to capture artificial transactions designed to avoid bargaining obligations. Family relationships often arise in key person cases, although not only in key persons cases. Requiring the labour board to disregard that evidence,

while on the other hand taking into account the three specific factors set out in the new legislation, creates an unreasonable constraint on the board's ability to assess the key persons factor in related or successor employer applications.

The proposed amendment in Bill 69 are overly broad. We accept that a family relationship should not be the only factor considered by the Ontario Labour Relations Board. However, there is no logical basis for precluding the OLRB from at least taking a family relationship into account, given that family-based firms are common in the construction industry, as is the multiplication of corporate entities. The proposed amendments, therefore, have the effect of discounting a factor which, together with other relevant evidence, could lead the OLRB, in appropriate cases, to issue a single or successor employer declaration.

We also note the purpose of the proposed amendment, as described by the Minister of Labour himself. In presenting Bill 69 for first reading, the minister said, and gave an example:

"For instance, a father is operating an electrical company and the son is an electrician in that company. There are 200 employees in the company, but the son is simply an electrician. We don't think it's right that if that son wants to go out and open an electrical company, he automatically becomes unionized simply because he's related to the person who owns the company with 200 people. We're not saying that they couldn't be a key person; all we're saying is that if you get to the Ontario Labour Relations Board, you can't just say, 'They're related; therefore this person is automatically unionized.'" I don't believe we've asked for that.

"... there has to be a more compelling argument involved in that than simply saying, 'You're related.' All we've said in the key man portfolio is that you just can't make the argument that blood relations and the person's position in that company should make it automatically a unionized operation."

This is at page 8 of the Internet version of Hansard, May 1, if anyone wants to look.

Clearly, what the minister intends is that the OLRB not be allowed to rely solely on a family relationship to determine a successor or related employer issue. The minister's statement does not suggest, nor should the minister suggest, that a family relationship cannot be taken into account as one consideration among others. The inference from the minister's statement is inescapable, namely, that the wording of the proposed amendment goes beyond the government's intention.

The construction unions of Ontario respectfully submit that, as currently drafted, section 126 as set out in Bill 69 does not reflect what the Minister of Labour has described as his purpose and would unreasonably constrain the labour board from making appropriate determinations.

Recommended change to Bill 69: The construction unions of Ontario propose that subsections 126(3)1 and 126(5)1 be amended to require: that the board not make a

single successor employer declaration solely on the basis of a family relationship, and that the board will continue to be permitted to take family relationships into account in making related and successor employer determinations.

I think what most of the labour and management want, when they go to the Ontario Labour Relations Board—and I've been there numerous times on these cases—is fairness. I don't think either party will feel that there is fairness if there's someone outside dictating what evidence can or cannot, or should or should not, be put in there.

I've also presented and left with you a brief of just two pages of some of my own feelings about the general contractors and what's there. I'm not going to go into them. I'll leave them with you to read.

One case I heard John mention was the time that he spent at the board going through a previous case and the family intricacies that it went through. Our organization and the united association of plumbers and steamfitters went through the same one not long ago, and I think they spent somewhere around two and a half years and maybe 30 days at the board going through the case of a gentleman who had set up a company where he had computer access from the non-union companies to the union companies. They were all related and in his daughters' names, and so on and so forth, but they stemmed from the same purpose. These are not easy cases for the building trades to win the way the legislation is today. That's evidenced by the—no, I won't say which report it was, but like I said, we have about a 50-50 chance. I'll leave it at that in case there are any questions.

**The Chair:** We have about one minute for questions in total, so if you take the full minute there won't be any other—

**Mr Christopherson:** In your two-pager you make the statement, "I truly fail to see how this bill will benefit anyone in the long term." Can you just help me understand where that leaves you as the business manager of local 463, in terms of the bill? My general understanding is that, overall, the labour leaders in the construction industry are supportive of the bill, but there are a slew of amendments. I'm now trying to work my way through where all this leaves us if these amendments aren't made. That statement you've made there pertains to what?

**Mr Cann:** I guess that pertains more to my own organization, my own area, my own contractors. As it says in our brief, the overall concept of trying to work together to make our contractors competitive, I don't think there are many of us who are against that.

Within our own area, I have been lucky enough to develop a relationship where I work very closely with my contractors. We have done some of the things that are in here because of the competitive nature of it. If we don't have the amendments in there, what I'm afraid of is that the labour leaders in this province will get to the point where they feel you can talk but no one listens. If that doesn't leave us any alternative at the end of the day, it puts us back in a state of confrontation, I guess, with our



contractors, which I don't see—that's what my statement says there—benefits anybody. It doesn't benefit me, my members, my contractors, the general contractors; it doesn't benefit the government in any way, shape or form to have a feeling of animosity or confrontation in the workplace.

**Mr Christopherson:** Without the amendments, would you prefer to see Bill 69 fail?

**The Chair:** That's it, Mr Christopherson.

**Mr Christopherson:** I'm not trying to be funny or coy; I'm serious.

**Mr Cann:** I know. If some of the amendments aren't out there, it's destined to fail. I know that's kind of—

**Mr Christopherson:** I hear you. That's OK. We're all in a tough spot on this one.

**Mr Cann:** It's going to fail because it won't work.

**The Chair:** Thank you, Mr Cann.

#### LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, ONTARIO PROVINCIAL DISTRICT COUNCIL

**The Chair:** Our next witnesses are Mr Connolly and Mr Moszynski. LIUNA, Ontario Provincial District Council.

**Mr John Moszynski:** Thank you very much, and good afternoon, committee members. My name is John Moszynski, I'm a member of local 506 of our union and I'm a lawyer employed by the district council.

The district council is run by Brother Thomas Connolly, the business manager, who is seated to my right. The council represents our 14 local unions throughout the province and our more than 35,000 members who work in the industry.

We have participated fully in the process that has resulted in the proposed amendments to the Labour Relations Act. Like the other construction unions in Ontario, we think Bill 69 is a preferable alternative to the repeal of section 1(4).

1700

We appreciate what the government has done in resisting the demands for more drastic changes. We do have serious concerns with particular aspects of the bill. I'm going to try and go through them quickly. I want to depart from my text to make two points. You will soon be presented with a much more comprehensive brief from Brother Pat Dillon of the provincial building trades council. The Labourers fully accept and support the comments that are made in that brief.

I also want to say that the Labourers support the comments that were made to you by Mr Richer a little earlier today. The Labourers also accept that the eight general contractors to whom Mr Richer referred should be released from their non-civil collective bargaining obligations outside of board area 8. That has been part of the premise on which the discussions have proceeded. It is a piece that remains to be filled in before the industry's solution will be in place.

I'm moving now to discuss the proposed changes to 1(4). You heard Mr Calligan from the Carpenters speak at some length on those amendments. I just want to reiterate that we also think the proposal should be amended to require that the board not grant a related employer declaration solely on the basis of a family relationship. We do think that you should let the board consider, as it now does, whether the family relationship is significant.

I suggest to you that there may be circumstances where an employer would want the board to consider the fact that when his son was working in the family company, he really had no control, he really had no responsibility and therefore no obligation should follow that. It's very dangerous, in our submission, to tell the board not to consider something. If you can trust anybody, you can trust the board to give the matter full consideration.

As I mentioned, we represent 14 local unions around the province. The largest of course is our local 183 which represents the majority of workers in the residential sector. They will be making submissions to the committee later this week I understand. My general take on it, for your information, is that they support the residential amendments but that there are one or two significant points which have to be dealt with and which ultimately should not present a problem to the government.

Moving to the procedures for effecting local modifications to provincial agreements, in the audience I notice my good friend Joe Keyes, here from the Ontario General Contractors Association. The General Contractors, as the employer bargaining agency, are our counterpart on a province-wide basis. We are the provincial organization of unions. The employer bargaining agencies are the employer equivalent.

The proposal to create designated regional employers' organizations is, I think, of concern to both the employer and union provincial organizations. We have a comfortable relationship with each other. We are used to working with each other, including arriving at modifications to our agreement. We are concerned about creating another level of employer organization that is entitled to participate in the amending process. That's another body at the process. It's going to slow things down. There may be diversions of interest. We suggest to you that the only designated regional employer organizations to participate should be those that the employer bargaining agency sees fit. I'd suggest you don't want to undercut the internal control of the provincial agencies.

If I can speak as well to the subject matter of the proposed amendments, whether an application can deal with or should be able to deal with benefits or the total wage package—that particular question.

I want to suggest to you that it's very difficult for anyone else to really appreciate the situation we are in with our benefit plans. Regardless of whether the member is making \$30 or \$15 an hour on the project, the benefits still cost the union a set amount per hour.

If someone comes in and says to the arbitrator, "I want to pay 15 bucks, and I only want to pay a buck for bene-

fits and a buck for pension," that creates an incredible problem for us. Our preference in the circumstances would be that the employer comes in and says, "My total cost per hour can't exceed 15 bucks." Then if we have to take that 15 bucks and say to the member, "You can only have \$12 in wages; because we have to put \$2 in benefits and \$1 in pension, we'll have to do that," we may be able to make some alternative arrangements, do some internal pooling, something like that. But to suggest that a third-party applicant could make a proposal like that we think is ineffective. Let them ask for a reduction to the total wage package and leave it at that.

I understand I only have two minutes left. I won't cover things that have been dealt with before.

I want to make a point about the mobility provisions. They are of great concern. You may not appreciate the degree to which those hiring hall arrangements represent a local preference. There will be members up in outlying areas of the province who watch the work coming, and their lives depend on getting that work. What we're asking you to do—a small amendment—is to make sure that the employer is entitled to bring with him, to northern Ontario or wherever, current employees, that if the employer has his workforce and he needs these guys to go up north, or some of them, to do the work, they must be his current employees. That's what you'll be giving him a right to do and we don't really have a problem with that. We do have problems with the notion that they can be other than current employees, hired off the street. You can understand that would be reasonable.

We're also concerned that there's no opportunity in the legislation for consultation about who the arbitrators are going to be, who actually pull the trigger, if the trigger is going to be pulled. When we have private arbitrators in our collective agreements, we can always agree with the employers on whom we should get, who it should be, who the arbitrator is who's familiar with the industry. We've made that proposal to you, because as I'm sure some of the committee members who may not have had a lot of experience now know, this is a very complex industry. To tinker with it will have ramifications.

I think I'm almost done. Members, you'll find we have tried to make our brief short and sweet and as much of an absolute, must-have list as possible, because in response to the concerns that Mr Christopherson has raised, the industries approach this like they always have, with a commitment to find a solution we can live with. Frankly, we've all come a long way. We are very close to a Bill 69 that everyone can live with. I ask you to take our proposed amendments into account and I thank you for your time.

1710

#### ONTARIO SHEET METAL WORKERS' AND ROOFERS' CONFERENCE

**The Chair:** The next speaker is Mr James Moffat of the Ontario Sheet Metal Workers' and Roofers' Confer-

ence. We also have Mr Jerry Raso and Mr Owen Pettipas. We also have a fourth gentleman, do we?

**Mr James Moffat:** Yes. Good afternoon, Madam Chair and members of the committee. I'm James Moffat, the training and trades coordinator for the Ontario Sheet Metal Workers' and Roofers' Conference. With me are the business manager of the Ontario conference; our in-house legal counsel; and the business manager of our largest local union in Toronto, local 30, Al Budway.

The Ontario conference represents 11 ICI local unions in the province, the largest being in Toronto. There are smaller centres such as Windsor, Thunder Bay, Kingston, Sarnia and Sudbury, just to name a few. We represent approximately 10,000 members in the ICI sector. I will now hand it over to our legal counsel, Jerry Raso.

**Mr Jerry Raso:** The representatives of the Ontario Sheet Metal Workers' and Roofers' Conference are here to say that we are opposed to Bill 69. We do not endorse this bill, but we are here to propose amendments. We do not feel this is a positive bill that can help our members or the industry as a whole, but we are here because we feel the bill is so anti-union, anti-worker and anti-democratic that we must come to the public hearings to present amendments to do whatever we can to help our members, to lessen the damage this bill will inflict and to ensure that this bill at least lives up to the words of the Minister of Labour with respect to what it is intended to accomplish.

Our obvious preference is that Bill 69 be withdrawn and not replaced with the repeal of section 1(4) or any other anti-union legislation. We say with confidence that that is the reason why this bill is not being opposed by the majority of building trade unions in Ontario. It is the fear of losing 1(4) that is the only reason this bill is not being opposed. It is not because the unions like this bill or feel it is good; it is because they are afraid that if we say no to Bill 69, section 1(4) will be repealed. Our unions in Ontario, the building trade unions, have seen the devastation caused by the repeal of section 1(4) in Alberta, and they're terrified of losing it and we're terrified of losing it. That's the only reason Bill 69 is not being opposed by the building trade unions. We say that if the threat of removing section 1(4) were removed, no union would be supporting this bill.

Why are we against it? The first reason is because this bill is an attack on smaller communities in Ontario outside the Metropolitan Toronto area. It attacks smaller communities in three ways. First, it will allow employers to employ up to 40% of workers on a site from anywhere in Ontario, meaning that they are no longer required to employ workers who live and raise their families in the communities where the work will be built. It is a statement that companies can force workers to move around Ontario with them, instead of saying that a worker in Sudbury has the right to work in Sudbury, where he lives and where he raises his family. It gives preference to large companies, mainly from Toronto, to say, "You can force your people to work anywhere in Ontario," despite what the effect of that will be on



smaller communities like Windsor, Sudbury and Kingston. Up to 40% of unionized workers in those towns stand a very good chance of losing their jobs because the large companies that come in from Toronto will bring workers with them.

The counter to that is that there's no requirement in this bill that employers have to take workers from the town in which they live and work. There's nothing in the bill that says a Sudbury company has to take Sudbury workers with them. There's nothing that says a Sarnia company has to take Sarnia workers with them if they go out. We're terrified of what will happen: that Toronto workers will move around the province at the expense of the smaller communities.

The second effect on small towns is the ability to allow companies or employer groups the right to seek amendments to collective agreements throughout the province. We've heard that the trouble with this concept is this designated regional employers' group. That phrase is so wide-open, it leaves it open to any companies, say, from Toronto, that do work in Windsor to make an application to cut wages in Windsor even though they are not Windsor companies.

Third, what we're hearing is, in section 160, the desire to allow large general contractors out of their collective agreements, but only outside of Toronto. The bill will allow them to remain unionized in Toronto but will be decertified outside of Toronto.

Those are three examples of how this bill is an attack on smaller communities.

The second reason why we're opposed to Bill 69 is because it's a race to the bottom. The bill is explicitly designed to reduce wages and to reduce benefits, travel allowances, pension contributions etc. This bill is not designed for employers to make an application to increase the wages in a collective agreement. There's only one purpose for giving companies the ability to seek amendments: to lower wages, to lower benefits. We know that if union wages go down to the level of non-union wages, those wages in turn will drop to maintain the competitive advantage they have over unionized companies. So it's clearly a race to the bottom.

Our third concern is the attack on the hiring hall provisions of our collective agreements. Our hiring halls are designed to ensure that the people out of work the longest go to the top so they can go to work. This bill removes that and it will allow companies to name-hire up to 76% of the workers they need. They are going to pick and choose. That allows favouritism and encourages and allows discrimination against older workers, injured workers, women and visible minorities, and clearly it's an attack on free collective bargaining. Unions exist for one reason: to negotiate better terms and conditions for their members. This takes that away. Our hiring hall provisions are the heart and soul of our collective agreements. They're the equivalent of seniority provisions. The government is legislating what our hiring hall provisions state. It gives employers the right to name-hire up to 76%.

With respect to everything else in our collective agreements, it allows employer groups to seek amendments to an arbitrator to amend what the unions have freely negotiated with contractors. These are not collective agreements that have been rammed down companies' throats. They have been freely negotiated. It's giving contractors the ability to amend those collective agreements without doing it, where it should be done, at the bargaining table.

So why are we here? We are here because the bill is so bad, we want to ensure that it lives up to at least what the minister says the intentions of the bill are and to lessen the damage.

The minister has stated that the 40% maximum for mobility and the ability to name-hire up to 60% cannot be changed by the arbitrator. I think that's what Mr. Christopherson was getting at. Legally, arbitrators have the authority and the power to amend that 40% and bump it to 100%. There's nothing in the bill that says they can't. Legally it's done because those provisions are deemed to be part of the collective agreement. The arbitrator can amend anything that is stipulated in the collective agreement. The arbitrator therefore can amend the 40% and bump it to 80% or 100%.

The Minister of Labour said that this won't be abused because employers will still have to pay accommodation and travel, and that cannot be changed by arbitrators. Unfortunately, that too is incorrect. The arbitrator has the explicit authority to amend and to delete the obligation to pay accommodation and travel, so there's no protection for workers. Those two amendments are in point 4 of our proposed amendments on page 2.

1720

We also have in our list of proposed amendments 1, 2, 3, 4 and 5, all of which address the issue of fairness for smaller communities. Those amendments, and I don't have time to go into detail, are designed to ensure that smaller communities don't suffer as much as they could under Bill 69. Those proposed amendments are such that only the employer bargaining agency can propose to amend a collective agreement. That way, companies from Toronto can't do it for Windsor. We're proposing to restrict the ability for mobility, the ability to bring people around the province. We want that deleted to make sure that the 40% can't be raised. Another example is that we want an amendment to ensure that if a company does take people with them, they have to take people from where they are located, not from anywhere in Ontario. We want to propose that the bill say explicitly that a company has to take people from where they're located.

The minister also said that this is a good bill because it will create jobs for unionized workers. The design and the goal to allow a few general contractors out of their collective agreements will defeat that purpose. That is not designed to create jobs for unionized workers; it's designed to allow eight companies, and probably more, to decertify. Our unionized workers outside Toronto will not be working. That is not going to create jobs for unionized workers. Thank you.

**The Chair:** Thank you. We just allowed you to go a little over time. We still have three more speakers to hear from.

**Mr Christopherson:** If I might, Chair, while the next delegation is coming to the table, through you to the parliamentary assistant: That was exactly the reference made on page 16 to 163.5. The minister was suggesting to me that that guarantees that none of the changes to hiring hall practices can be made—you've heard at least one legal opinion. This could be an issue if the minister disagrees with what has been presented here; it could be a huge problem. If he does agree, maybe we can make an amendment that everyone can live with, and at least that part of this bill, if it is going to become the law regardless, could be looked at.

**The Chair:** Thank you, Mr Christopherson.

#### INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL, ORNAMENTAL AND REINFORCING IRONWORKERS

**The Chair:** Mr Aaron Murphy for the International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers. Please proceed.

**Mr Aaron Murphy:** Madam Chair, committee members, I promise that our brief will be pretty near as short as our name.

I'm here today as the business manager of Ironworkers local 721 in Toronto. I'm also speaking on behalf of the Ontario district council representing six other locals in the province. With me is Gary White, the business rep with the Toronto-Central Building and Construction Trades Council, who is also a member of Ironworkers local 721 and our vice-president. I've asked him to join me, if that's OK. He has been my right-hand man on Bill 69. He coaches me through the process and tries to help me understand what it's all about. I'm pleased that he could join me.

Given the brief time allotted, I'd like to take this opportunity to address only a few concerns with the bill. Before I do so, on behalf of the Ironworkers in Ontario, I'd like to express our strong objection, first of all, to even being here.

Bill 69 is, at best, the lesser of two evils. The request of a few employers in the construction industry to remove section 1(4) drove us to what the government is calling a compromise bill. The bill is not a compromise, but something perhaps less damaging than the alternative—maybe. Having said that, the bill as it stands requires several amendments.

Although our presentation is brief, we do support the brief of the construction unions of Ontario. We feel it's a good one and we wholeheartedly support it.

It appears that the minister has used the Ironworkers' agreement with the Ontario Erectors Association, our employer bargaining agency, as an example of mobility. What's good for the Ironworkers may not necessarily be good for other trades. We negotiated mobility in hiring hall practices with our contractors to give them a certain

amount of freedom to choose whom they want to hire. We have a 50-50 arrangement with our Ironworkers and almost 100% with our reinforcing rod people. We find that works for us. It has some hang-ups, but it does work for the most part.

While we can live with the type of mobility we have with the OEA contractors, the Ironworkers oppose allowing arbitrators to give more mobility to contractors than what's allowed for in the bill. We are concerned that under the theme of "competitive disadvantage" an arbitrator can award 100% name requests to a contractors' association. We believe that an arbitrator should not be given the authority to surpass the limits of Bill 69.

I can assure you that if contractors were given 100% name-hire, many members of our local union, and especially older workers and minorities, would suffer a severe hardship; 50-50 name-hire is a good balance and that's what we support.

Another concern we have is what is meant by "competitive disadvantage." It is simply too wide open. I don't think there is a contractor in Ontario who isn't at some competitive disadvantage. If the government means that, then they should outlaw unions and eliminate the minimum wage. There has to be some limit on the contractors' use of this provision. Surely it can't be good for the economy to reduce the wage of over 100,000 tradespeople to 12 or 15 bucks an hour. It's not just companies that spend money in Ontario. You can't ignore the social problems that would flow from turning Ontario into a low-wage ghetto.

We propose that the employers be required to prove that they are suffering a significant competitive disadvantage.

The final point I want to touch on is the type of person we want to arbitrate disputes over competitive disadvantage. Under the bill, as drafted, the government gets to pick who the arbitrator will be. It's unfair and could lead to total anarchy in the industry if the government chooses people who are not neutral or have no experience in the construction industry.

We support the amendment being proposed by the sheet metal workers that the list of arbitrators under Bill 69 consist of arbitrators who have had experience in arbitrating disputes in the construction industry and who are on the Ministry of Labour's approved list of arbitrators—preferably put forward by labour and management.

I'd like to thank you once again for your time and I hope you will act on our proposals.

Now I spoke late this morning to our counterpart, our employers' association, Mr Bill Jemison of the Ontario Erectors Association, and he wrote me a letter. It won't take me very long; I'd like to read it to you. It's addressed to me and it says:

"I have written this letter as a result of our discussions this morning relative to Bill 69.

"Unfortunately I will not be able to join you at the hearing today as I must attend a long-standing appointment that I cannot change at this late date.



"My views on the subject we discussed, 'the mobility issue,' do not appear to be in conflict with that which you discussed on the telephone.

"I believe the current collective agreement between this association and the Ironworkers local unions gives the employers the mobility they require to successfully man their jobs. These conditions have been in place for many years and were arrived at through the collective bargaining process. A quick perusal of Bill 69 would lead one to believe that our collective agreement was used as a model for the proposed legislation with respect to the mobility numbers.

"Unfortunately, Aaron, I do not have enough time to comment on other aspects of the bill."

It's signed by William Jemison, president of the Ontario Erectors Association, representing our major group of contractors. That's my submission.

**The Chair:** Thank you, Mr Murphy. Would you be prepared to give us a copy so that I could distribute that to all the members?

**Mr Murphy:** I certainly could.

**The Chair:** Great. Thanks very much.

We have about four minutes for questions. That was a nice, brief presentation. We'll go to the government members.

**Mr Beaubien:** You mentioned that mobility has been negotiated in your agreement for a number of years. For how many years?

**Mr Murphy:** As long as I can remember, so it goes back at least—

**Mr Beaubien:** So it's been an ongoing process?

**Mr Murphy:** It's been an ongoing process.

**Mr Beaubien:** The mobility clause has worked very well for your workers?

**Mr Murphy:** We think so.

1730

**Mr Beaubien:** You mentioned that it would not work very well for other trades. Why is that?

**Mr Murphy:** In the ironworker sector—we'll leave the rod sector alone because they're all pretty well equal; you're either a rodman or you're not a rodman—we have various skills in our local union. We have structural steel erectors, machinery movers, mechanical-type people. They're a varied group. A 50-50 hiring hall allows a specific contractor to order the kind of person he needs, with the balance coming from us. Does that answer your question?

**Mr Beaubien:** Again, I find it difficult to believe that it works for the Ironworkers. I know with the Bluewater Bridge, when it was twinned, that a lot of the Ironworkers came across from the different locals in the province. But I find it difficult to swallow that it would not work with other trades. What's the rationale behind that?

**Mr Murphy:** First of all, there are only six locals in Ontario and the same contractors—the bulk of them—I think come from Toronto. They have a 40% provision. Most of them don't go that far with it. They're mainly concerned with having general foremen, key personnel. If

one particular area has full employment and another doesn't, we're sensitive to that. We allow contractors to move people up to 40%. Does that answer your question?

**Mr Beaubien:** Yes.

**Mr Bartolucci:** I have to tell you I have trouble with the mobility issue, the naming issue, because I'm from northern Ontario and I see an inherent weakness. It's going to deny the people in the north the opportunity to work in the construction industry.

Having said that, I want to go back to—because I think this is very critical for fairness in the industry—the final offer selection the way it's written in the bill, where you can have more than one final offer. Can you outline what some of the problems are going to be with that?

**Mr Murphy:** What a question.

**The Chair:** You have about 30 seconds in which to answer it. Sorry.

**Mr Gary White:** It's a difficult question to answer in terms of the Ironworkers' union. I think the troublesome point is who the arbitrator would be and how it was selected. The union would obviously be concerned with who would be selected, where and when. The Ironworkers, in enabling their collective agreements in the past, have not had to experience that.

I think this will touch on where the arbitrator would come into this. We see that areas such as mobility were discussed. One thing that isn't abused in the Ironworkers' collective agreement is the 40% ratio, which goes from area to area. Our collective agreement—the local area in which the work is to be performed, they enforce those benefits and accommodation and what not. It's not likely that an employer would bring, if it's a large job, the full complement of people to the area to perform the work, because it would be more costly. But an arbitrator could, if he's not used to the construction industry, arbitrarily rule insignificant.

**Mr Christopherson:** You've already heard this afternoon a couple of presenters say that even if the government ignores the well-thought-out and reasonable recommendations that the various unions make and rams Bill 69 through as it is, it won't work. It's not going to work, notwithstanding the minister still maintaining that everybody in this room wanted Bill 69. He still thinks and says publicly that he never threatened anybody with 1(4) and that every one of you wanted Bill 69 because it's going to make for better legislation for your workers. That's what we're dealing with here. Notwithstanding that, do you think Bill 69 will work as it is now printed, just in a practical, day-to-day sort of way?

**Mr Murphy:** No, I don't think it will. We have certain clauses in our agreement that were won at the bargaining table. They benefit both the employer and the unions. We're happy with the mobility clauses, hiring hall practices and so on. All these things were negotiated. If our employers wanted something beyond that, I'm sure they would have asked for it. I can't speak for the other trades. I can only speak for my own union. But we are happy with what we've got and we don't see any need to disrupt it.

**The Chair:** Thank you, Mr Murphy and Mr White.

## ONTARIO PIPE TRADES COUNCIL

**The Chair:** Mr Neil McCormick, Ontario Pipe Trades Council.

**Mr Neil McCormick:** Thank you, Madam Chairman. My name is Neil McCormick. I'm the business manager of the Ontario Pipe Trades Council. The council is an association of 17 united association local unions and 15,000 members made up of plumbers, steamfitters, welders, refrigeration mechanics, sprinkler fitters and apprentices throughout the province of Ontario.

The Ontario Pipe Trades Council endorses this bill in principle, but several concerns are raised as a result of Bill 69 and its effect on specific areas of our affiliated unions and the council as a whole.

Subsection 151(1), regional employers' organizations: We would care to see clarification of this subsection and subsequent parameters on who would represent. We feel this subsection is too broad-based and leaves room for application by individuals who do not represent specific interests of the industry. Without any parameters on this specific provision of the bill, are we open to being represented by the steel industry in Hamilton, the mine industry up north or the car industry in Oshawa because they can't compete in other areas of the country or throughout North America? Second to that, are we also not at risk? I might also say that this specific part of the bill asks more questions that it does give answers. Can we not also be represented by someone who has an association with a rival union that does our work who is not affiliated to our parent body, AFL-CIO?

Section 150.1: We agree with the brief in its entirety submitted by the Toronto-Central Ontario Construction Trades Council and the residential unions alliance.

Subsection 163.5(1): We would request language to reinforce ratios with regard to 50-50 of selection of employees as occurs in most of our local union appendices as a maximum ratio. The current 50-50 ratios stabilize the employment climate in our local unions and address contractors' concerns for the ability to hire a specialized workforce and the local unions' concerns in allowing all members to access work despite minor impediments.

I question the rationale of increasing it to 60-40. Most of the local unions around the province have a parochial climate, if you will. They like to look after their own areas, especially in some of the outlying areas, some of the northern cities such as Sudbury. They like to see their people rotate through the list, and anything above 50-50 does not allow for that. What we're talking about here are people who may not have a knowledge of contractors, who may not have a knowledge throughout the industry, such as an apprentice first coming out of his time. He needs to access that work the same as anybody else and he does so with a 50-50 name hire.

We also sense some alarm at the mobility provisions of 40% for specific isolated areas of the province when members live in an economically sensitive environment that may be overpowered by a transient workforce and therefore displaced from their only means of viable

employment due to their isolation. We're asking for a lowering of that 40%. I think what the contractors were looking for initially was some sense that they could bring people who were key to their organization, key to their company, who could come in, set up and make sure that the job was run effectively. We are in a very specialized environment now in our industry and we understand that. We also, I might add, have addressed it for a number of years. Most of the locals do allow mobility in that regard, even when it's not in the collective agreement. But 40% is unreasonable. It may be reasonable in the southern areas, but in some of the outlying areas of the north, where people concentrate in one area and look to that area to sustain their domicile and their standard of living, they may be affected and probably will be affected in some cases by this. It's no secret that some of the contractors that do some of the specialized work we're getting into more and more are based in the large centres and not in the Timminses, the Kapuskasings and the Chathams of this world, and so therefore we feel there may be some damage to the sensitive areas of the province.

We would also strongly reinforce for the above provisions with respect to ratios that the rules of procedure in dispatch halls be adhered to. What I am saying by that is that we don't see and hear in this bill that there's any assurance that the dispatch requirements, the travel car requirements, as in the UA, will be adhered to so that we can have control on who's coming and going in our industry and therefore retain some sense of control over the people who are therefore hired.

I've kept my submission brief. I didn't want to touch on some of the areas so that I could allow for more questions, as some of my predecessors have not.

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**The Chair:** Thank you, Mr McCormick. There are about four minutes for questions.

**Mr Bartolucci:** Thank you very much, Neil, for your presentation and for understanding the industry outside of district 8. You're right; we have 17.3% of our population in the region of Sudbury below the poverty line. We have an unemployment rate that is 2% above the provincial average and several percentage points above the federal average. The construction industry in Sudbury for a long time has been anything less than active, to be polite. You suggested that the 40% mobility rule should be altered for areas such as Timmins and Chatham, those areas outside of district 8. What would you suggest that percentage be?

**Mr McCormick:** I would think somewhere in the neighbourhood of 20%. That would address the contractors' concerns and also it would ensure that the union puts people to work.

**Mr Bartolucci:** Very good. I know I've only got a second or so. Neil, the hiring hall practices are really the seniority of the construction industry. The audience understands this, but for some of us here around this table, can you explain why there has to be as much



flexibility with the hiring hall practices for the viability of the industry outside of district 8?

**Mr McCormick:** Prior to my election as business manager of the province of Ontario, I was the business manager of Hamilton, Ontario, and I can tell you from my own personal experience that it can get horrific at times. We have no seniority. We have no call-back rights, and some of the members of the local union, who may not know the contract they can call on to get involved in this name-hire provision, look to the list to get hired. In the experience I had in Hamilton, we had times where we used to make light of some of the statistics that came out of the government, some of the unemployment statistics of 8% and 9%, because we were up in 40% and 50%. So when you were on that list, you might be there upwards of a year. Now, with this section of the bill coming forward, that may also be in jeopardy—you're there for a year, you're waiting for one job, and at the last minute somebody else from out of town comes in and takes it.

That's the fear we have with it. We know we can't alter that section in its entirety, but we're asking for some relief on those numbers.

**Mr Christopherson:** Neil, good to see you again. Thanks for your presentation. I'm going to start getting this clear, where there's time, from labour leaders. Was there ever any doubt in your mind that the government sincerely was threatening to remove 1(4) if you didn't go to the bargaining table?

**Mr McCormick:** I never heard that statement, but we all knew it was true.

**Mr Christopherson:** The way the minister frames it is, "I can't get into their heads." That's his quote. I need to know with certainty that there was absolutely no doubt in anybody's mind, because certainly that's the way it's been conveyed to me in every discussion I've had with any one of you in this room.

**Mr McCormick:** I can't speak for everybody in back of me, and other people who aren't represented here, but I can't remember anybody I have met yet who didn't think that was the case.

**Mr Christopherson:** Good. Thanks. You mentioned the issue of mobility and talked about the fact that you'd like to see the 40% changed. I raised the issue earlier about 163.5 and whether or not that actually protects the minimum the minister is talking about having in place now in terms of the 40% and 60% of the remaining. If it comes down that every legal advice you get says this thing is now subject to an arbitrator's ruling, just as we heard an earlier legal opinion that benefits are on the table as a result of what's here, where does that leave you? What does the minister need to hear from you about that clause if an arbitrator can change the 40% and the 60% in a way that's further detrimental to your members?

**Mr McCormick:** I can only speak for our trade, but I think we need some relief on that; in the neighbourhood of 50-50, like I've stated, and it needs to be entrenched in that bill so there can't be any tinkering with it. We've all talked about this industry-based solution. We've all

talked about the co-operation of the two parties. There needs to be that co-operation, and with any tinkering upwards you're not going to get that co-operation. As a matter of fact, you'll find a lot of people who are unco-operative.

**The Chair:** Sorry, Mr Christopherson. There is one more question from the government side, and we have just about 30 seconds left.

**Mr Christopherson:** God forbid we should take time to reflect on this.

**Mr Beaubien:** Thank you for your presentation. Someone mentioned in the previous presentation that we've seen the damage by removing section 1(4) in Alberta, yet over the years you've had many employees represented by your local work in Alberta. Can you explain that to me?

**Mr McCormick:** The people who have worked there haven't had a raise in 15 years, for one thing. We had a presentation by the business manager of Edmonton, and he says that right now the only reason our people are working and their bill, whatever it is that is the equivalent of our 1(4), isn't in place is because of the boom they have out there right now. They're talking in the neighbourhood of \$30 billion over the next 10 years. With that, they have no fear of it, but he says they know those people all have shell companies waiting to go once the boom is finished.

**Mr Beaubien:** But they've taken advantage. Furthermore, a quick question—

**The Chair:** The 30 seconds is up.

**Mr Beaubien:** That's OK.

**The Chair:** Sorry. I did specify that, Mr Beaubien. Thank you very much, Mr McCormick.

## EASTERN CONSTRUCTION

**The Chair:** The final presenter of the evening is Mr Ed O'Neil, Eastern Construction.

**Mr Ed O'Neil:** My name is Ed O'Neil, and I'm president of Eastern Construction. I'm here to discuss why additional labour law reform is needed.

Our company started business in Windsor in 1951. We have worked in every province of Canada for 50 years, but our focus in head office has always been in Ontario. We are now faced with the reality of being forced out of our own province. In 1956, we expanded our operation into the Toronto market and we signed the Toronto building trades agreement. That agreement bound us to six civil trades—carpenters, labourers etc.—that we employ directly. We have no problem with these six agreements. The agreement also required us to subcontract to union subtrades. The agreement could be terminated on 60 days' notice. Non-union was not a factor in those days, and we considered the voluntary agreement as just a requirement for doing business in the Toronto area.

In 1978, province-wide bargaining came into effect. Then the labour board ruled that we were bound to 24 trades throughout Ontario, including 18 trades where we have never employed their workers and have never been

certified by the unions. Some 288 companies were caught in this situation. There are only eight of us still left.

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Any company which started in Ontario after 1980 or moved in from other areas—right now, we have competitors from Quebec, Alberta, England and the United States. If they came here after 1980, they have from zero to eight agreements. The eight companies like us who are committed to 24 agreements are losing our market share. Unfortunately, it's penalizing the oldest Ontario companies.

Let me give you a current example. Chatham hospital is out for tender. It is a \$40-million project, closing on May 24. The owner and design team invited seven mechanical contractors, two of which were non-union. They also invited six electrical companies, two of which were non-union. Five union mechanical and four union electrical have decided not to bid. We now have no union mechanicals and one union electrical. Eastern and another company, Ellis-Don, cannot bid since we cannot work with non-union subtrades. Thus, two of the largest, most competitive general contractors are eliminated from the bidding, and it's very possible the province will end up paying more for this hospital. If this job goes completely non-union, I don't see where it helps anybody in this room. This is not a singular example; it happens monthly.

We have spent considerable time over the past few months discussing our problem with the minister and his staff. We believe the building trade unions have committed to terminate agreements other than the six civil trades outside the Toronto area. We believe the Minister of Labour was also in favour of that position, but it does not appear in Bill 69. We believe this amendment should be added to reflect the position of the unions, the government and other contractors.

The issue is simply fairness. Why should the oldest, largest Ontario contractors be forced out of their own province? If this happens, the cost of building construction in Ontario will certainly not go down.

**The Chair:** Thank you, Mr O'Neil. There's about three and a half minutes for questions, starting with Mr Christopherson.

**Mr Christopherson:** Thank you very much for your presentation, sir. Your last sentence in your presentation is, "If this happens, the cost of building construction in Ontario will certainly not go down." It struck me as soon as you said that that it stands opposed or in juxtaposition with most of the labour leaders who have come forward and said that the ultimate end result of Bill 69 is to lower wages, lower benefits, lower transportation costs, accommodation etc. It seems to me you're going to win either way, that things aren't going to go up, because wages aren't going to go up; the arbitrators can't do that. Everything in this bill is going to force things down. With great respect, I have difficulty understanding how you lose.

**Mr O'Neil:** Part of it is that this bill will likely force some of the eight of us to form companies in other provinces. The province will lose some of the most competitive general contractors here. That doesn't help. The

wages etc you refer to, they're all part of a very involved arbitration process. It has never been tried. It looks very costly, very complicated, and I doubt very much it will ever work. I doubt very much if wages are going to go down, but our problem basically is that we're up against non-union companies that have come here since 1980.

**Mr Christopherson:** Yes, I understand that, and I can understand your dilemma. If your goal is not to lower the wages of the workers—and I haven't heard you make that statement; I'd be surprised if you did. But if that's not your purpose, let me ask you hypothetically, if everybody out there was unionized, would that correct the whole problem of competitiveness and non-competitiveness? If everybody is getting paid the same rate and your competition has to pay that same rate across the board, does that not eliminate all the things that are in Bill 69?

**Mr O'Neil:** If every general contractor and every subtrade were union in Ontario, we would not have any problems.

**Mr Christopherson:** Is it possible that the government sort of went in the wrong direction? Rather than putting the screws to the workers through Bill 69, maybe what they should have done was make organizing a whole lot easier and, in some cases, mandate organizing. All these workers would get more money, you wouldn't have a problem in terms of your situation and then we could go on to a real healthy construction industry.

**The Chair:** Could you please be brief, Mr O'Neil. There are questions from other members of committee. Did you want to answer that question?

**Mr O'Neil:** I'm sorry. Was that a question?

**Mr Christopherson:** A rhetorical question—how's that?—although it happens to be a position I believe in.

**The Chair:** That's the best question I've heard all day.

**Mr O'Neil:** It sounded like a speech.

**Mr Christopherson:** Everything I say sounds like a speech.

**Mr Beaubien:** Let me ask you a question as an employer. We can talk about competitiveness, but why is it that certain unions are afraid to compete with other unions represented by different groups on the same job site? Forget about non-union trades. We've got a case in Sarnia right now where we have a sheet metal operation—refrigeration, cooling and heating—who belongs to another union, a Christian labour union. But because the unions are signatory to the contractor that is building this development, this particular individual cannot compete. So I ask, why is it that unions are so afraid to compete with other unions? Let's forget about the non-union aspect. Have you got any comments to that?

**Mr O'Neil:** Not really. No, I don't.

**Mr Beaubien:** But that is a fact.

*Interruption.*

**Mr Beaubien:** I will remember that. I hope you don't forget.

**The Chair:** We have time for one last question.

**Mr Bartolucci:** Mr O'Neil, thank you for your presentation. I'd love to spend some time talking about what Mr Beaubien just finished saying. We would have some



fun with it. You are a member, obviously, of the Ontario Coalition for Fair Labour Laws. Correct?

**Mr O'Neil:** Yes.

**Mr Bartolucci:** You're saying that Bill 69 isn't fair to you. We've been hearing today from every other presenter that Bill 69 really isn't fair to unions. I'm lucky to get this on the record: In your estimation, whom is this bill most unfair to: to you, that this legislation will allow wages to be driven down, or to unions that will have to bear the brunt? We all know that a worker's wages are a business's expenses. To which group is this legislation most unfair?

**Mr O'Neil:** It's unfair to us because it will drive us out of the province. Again, I don't see where wages are going to drop. I don't believe this arbitration procedure will cause wages to drop.

**The Chair:** I'd like to close by thanking all of you for your patience this afternoon. Again I apologize for the delay in getting started, but I'm very pleased with the level of commitment you made to understanding the procedures of committee; I appreciate that.

This committee is adjourned until 3:30 tomorrow afternoon.

*The committee adjourned at 1758.*

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First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 17 May 2000

# Journal des débats (Hansard)

Mercredi 17 mai 2000

**Standing committee on  
justice and social policy**

**Comité permanent de la  
justice et des affaires sociales**

Labour Relations Amendment Act  
(Construction Industry), 2000

Loi de 2000 modifiant la Loi  
sur les relations de travail  
(industrie de la construction)

Chair: Marilyn Mushinski  
Clerk: Susan Sourial

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Wednesday 17 May 2000

*The committee met at 1531 in room 151.*LABOUR RELATIONS AMENDMENT ACT  
(CONSTRUCTION INDUSTRY), 2000LOI DE 2000 MODIFIANT  
LA LOI SUR LES RELATIONS  
DE TRAVAIL (INDUSTRIE  
DE LA CONSTRUCTION)

Consideration of Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry / Projet de loi 69, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui a trait à l'industrie de la construction.

**The Chair (Ms Marilyn Mushinski):** Good afternoon, ladies and gentlemen. This is a continuation of the standing committee on justice and social policy meetings to discuss Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry.

Delegations, witnesses, have 10 minutes. If you wrap up early, we can have some questions from committee members. I should tell you that I will be fairly strict in maintaining the 10-minute rule so that we can keep to the schedule, which is due to complete at 6 o'clock this evening.

Members of the committee, I believe it's agreed that if there is time for questions of witnesses, we will split the time if it's more than two or three minutes, but if there's only a minute or two, we'll allow just one member and we will rotate as we go through.

## ONTARIO FEDERATION OF LABOUR

**The Chair:** The first delegation is Mr Wayne Samuelson and Chris Schenk from the Ontario Federation of Labour. Good afternoon.

**Mr Wayne Samuelson:** Thank you very much. Ten minutes is a short time. I'm tempted to speak real fast, but what I'll do is try and zero in on a couple of issues. With me is Chris Schenk, who is director of research at the OFL. The OFL, of course, is an umbrella organization representing 650,000 workers in the province.

This piece of legislation requires a great deal of debate. Unfortunately, the process that is in place doesn't allow for a lot of that. One might assume that on the surface this is legislation that directly impacts on the

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mercredi 17 mai 2000

construction sector and that other people shouldn't worry about it.

In my limited time, I want to focus on three issues.

This legislation, I should tell you, was discussed at our executive board last week.

The first issue is the 45-day strike period; the second issue is the whole issue of arbitration, which you've incorporated in the ICI sector; and then a few minutes on why it's clear the government is doing this.

First of all, the 45-day strike period: In my conversations and from what I can see, this is nothing more than a rescheduling issue for employers. What they'll clearly have to do is look around that 45-day period, that June 15 deadline, every few years, and schedule their construction around that.

On the surface some may think that this is fine, that they'll get settlements, that they'll go to arbitration and everything will be fine. Let me assure you that history has shown us that these kinds of pieces of legislation do not resolve all the conflicts. In effect, what you're doing is eliminating the right to strike, and in doing that—trust me—you will not solve all the problems. What happens, and it has happened historically, is that tensions build, frustrations build, employers often become greedy, and issues such as health and safety, fundamental work rule issues, often don't get dealt with in the process.

Trust me, as I said earlier, when they aren't dealt with, you can pass all the laws you want but workers will make their own decisions with their feet. You should know that you can't force anyone to work when it's unsafe or when they're not being treated fairly by their employer.

The issue of compulsory arbitration: On the surface, compulsory arbitration appears to be fair to many people, and in many respects it was somewhat fair up until the Tories got involved. You need just to look at the health care sector, where for years those workers didn't have the right to strike but instead had a binding arbitration system. What this government did—it was unheard of in this country—was they actually destroyed an arbitration system that had been in place for decades because they didn't like some of the decisions.

What they did was they tossed out the list that had been approved by both sides, that each side had confidence in. They appointed a group of retired judges, went so far as to bring them into the Ministry of Labour and interview them and, in short, created nothing short of chaos in the whole hospital sector. The issue is now



before the courts, as a matter of fact. In Divisional Court a judge has some pretty nasty words to say. The result also is outrageous fees, to where arbitrators are actually charging the parties to read the Ontario Labour Relations Act. So I should say to you that if you think that somehow you can put in this system and all the problems will go away, you need to look a little further.

Let me talk a little bit about the underlying reason we're here today. I think, friends, it's the golden rule, which is: He who has the gold makes the rule. Many of you will sit here and see lots of people coming up here representing various businesses and you'll say, "Well, I'm glad they could come." But I suspect there's some Tory bagman somewhere who sees loads of dough when these people come up.

I was absolutely shocked—I should tell you this—when I took this list I received at 1:30 this afternoon and gave it to one of my staff and asked her to go through the contributions to the Tories of the business groups that were coming here over the next two days. I should tell you—this is just looking at provincial elections and by-elections—that while you may see people sitting here, what you're actually seeing is over \$75,000 in contributions to the Conservative Party. That's just ones we quickly had a chance to look at. I can imagine, although it has been reported, that the contributions from the business community are quite phenomenal.

You can't run a government where people who donate lots of money have special access to the people who make decisions in the Premier's office, which has been documented right through this government, and then have legislation that people have confidence in or feel like they're being consulted on.

So we have a strange situation, but all too common, where legislation is drafted by the people who contribute lots of money to this party. It goes through the Premier's office and then we find workers in the position of having to bargain—if you can believe that—so they don't get the very worst. It leads to bad public policy. I think that the Tories, certainly on this committee, should have to answer for this.

I think you should, first of all, know how much money you're getting from everybody who shows up here. I'm sure you'll ask them, just to clear that up. But you should also know that it creates a clear impression out there that decisions are being made not necessarily in the interests of workers and communities but with incredible amounts of pressure from those people who write cheques to your political party.

I'll stop now so there's time for questions. I hope there will be.

**The Chair:** Yes, there's close to four minutes.

**Mr Samuelson:** Perfect.

**The Chair:** We'll try to get through one question for each.

1540

**Mr Carl DeFaria (Mississauga East):** Madam Chair, on a point of order: I take exception to the comment that the decisions we are making here are based on contri-

butions to our party. As a matter of fact, the labourers' union, Local 183, made a lot of contributions to members of our party. We are obviously not biased toward business or the unions.

**Mr David Christopherson (Hamilton West):** That's not a point of order.

**Mr DeFaria:** I think it's a point of order.

**Mr Samuelson:** I think the big question is, what's your point?

**Mr DeFaria:** What's your point? If the unions made contributions to our party, I don't see why you think that competition would be based on—

**The Chair:** Mr DeFaria, that's not a point of order, and I would suggest—

*Interjection.*

**The Chair:** Mr DeFaria, first of all that's not a point of order, and I would suggest that if you have a point, if you stop taking too much time you may be able to have a question.

**Mr Rick Bartolucci (Sudbury):** It should be clearly understood with any deputation that comes before us that the person who is making that deputation has a right under the democracy and freedom of Ontario to say anything he or she wishes.

You share some of the concern, certainly, that we share on the opposition side. I'd like you to outline just how justice for workers is injured in the arbitration process the way it's defined now.

**Mr Samuelson:** There are a whole bunch of questions that need to be resolved about this arbitration, but let me deal with the principle. I have no confidence in the ability of this government, based on what I've seen in how they've operated, in their providing an arbitration system that people can have confidence in. We were this far from an illegal strike by over 50,000 workers in the hospital sector. We have someone who presided over an arbitration system who a judge in a Divisional Court found to have done just a terrible job. People have no understanding of the system. So the fear is that if in fact the people who want changes, want workers to work for less, don't get the decision out of impartial arbitrators, they will pressure the government to put in the same kind of regime they have in the hospital sector, which has caused nothing but chaos. You have building frustrations in that whole sector of the economy simply because the government, in their wisdom, didn't like an impartial system and they wanted to influence it.

**Mr Christopherson:** Thank you, Wayne, for your presentation. On the issue of the 45-day strike limitation, it would seem to me this government had better move off that issue big time or the deal they've got may indeed unravel. I refer to a letter signed by John Cartwright—members will remember John presented yesterday and I believe he's here in the audience today—dated May 12 and addressed to the minister. I'm going to read it in part and then ask for a response from the president of the OFL.

"Dear Minister Stockwell:

"I have received numerous phone calls from affiliates regarding your remarks to the Legislature about the position of myself and this council on Bill 69"—that being the Construction Trades Council. "I find it unfortunate that you would misrepresent that position during the second reading debate.

"This council has consistently rejected your proposed restriction of the right to strike in the residential sector to a 45- or 46-day time period. You note that I was in attendance at all of the meetings held between the government and industry stakeholders. In fact, I was the only person involved directly in both residential and ICI discussions. Certainly I and every other labour representative were there—agreeing to concessions—because of the very real threat of the repeal of section 1(4) or similar amendments.

"We agreed to a number of significant concessions, some of which are now found in Bill 69. But at no time did our affiliates or myself agree to the 45-day window."

It would seem to me, based on this and based on your assertion, that the government had better realize that the labour movement is taking this issue very seriously. Wayne, do you want to just expand and try to get the attention of the government that they risk their entire bill over this issue, from what I can see?

**Mr Samuelson:** First of all, I think to impose the whole limit in the long term does you a lot more harm. But in terms of the 45 days versus 90 days that has been suggested, my understanding was that it has less of an impact on all those fundamental issues that build up inside workplaces if there is some ability to put pressure on employers so that ultimately there's a balancing act and people can work out some kind of a deal. I have seen a copy of John's letter. I think he makes it pretty clear. I guess the question for the government to decide is, if this is a road they're determined to go down, why wouldn't they at least make it so that there is some bargaining power, some way to resolve all these frustrations that build up?

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Mr Samuelson, a couple of quick questions. Do you think the 1998 rotating strikes in the residential sector were fair to Ontarians?

**Mr Samuelson:** You know something, my friend, in a democracy, whether it's here or in Poland or anywhere else in the world, sometimes there are work stoppages. It doesn't happen a lot. It happens in less than 3% of all collective agreements. If the answer in your opinion to this one set of strikes is to bring in some kind of legislation that attacks the fundamental rights of workers, then I say to you that you're wrong and that in fact you will create more problems, as we've seen in this country and in countries around the world, when you continually constrain people. What you're doing is giving an incredible amount of leverage to employers. I think it's pretty simplistic to look at one simple strike.

**Mr Gill:** Do you think that was fair to Ontarians, the rotating strike?

**Mr Samuelson:** You know what I think is fair? I think what's fair is having fundamental democratic rights, which include the right to strike in the free countries around the world.

**The Chair:** Thank you, Mr Samuelson.

**Interjection:** Another question?

**The Chair:** No more questions. Sorry, we're out of time.

#### ONTARIO COALITION FOR FAIR LABOUR LAWS

**The Chair:** Mr Coleman, Mr Smith and Mr Eon from the Coalition for Fair Labour Laws.

**Mr Steve Coleman:** Thank you, Madam Chair, and good afternoon. My name is Steve Coleman. I'm executive vice-president of the Mechanical Contractors Association of Ontario. I am here today to represent the interests of the Ontario Coalition for Fair Labour Laws. Joining me is Geoff Smith, who is president and chief executive officer of Ellis-Don; and Barrie Eon, who is executive director of the Ontario Refrigeration and Air Conditioning Contractors Association.

Some of you may be familiar with the coalition. It is made up of a broad base of players in the industrial, commercial and institutional, or ICI, construction sector. It includes the Association of Unionized General Contractors of Ontario, the Electrical Contractors Association of Ontario, the Mechanical Contractors Association of Ontario, the Association of Millwrighting Contractors of Ontario, the Ontario Refrigeration and Air Conditioning Contractors Association and the Environmental Sheet Metal Association—Toronto. All of these organizations, which represent more than 1,000 large and small Ontario businesses and employ about 100,000 Ontarians at any given time, came together to form the coalition in the early fall of 1999.

In the four years prior to 1999, many of these organizations and their members had been trying to achieve reform independently but with little success. Ultimately, we determined that a unified front could help us advocate more successfully for long-overdue changes to Ontario's construction labour laws. As members of the fully unionized construction industry, we were all suffering from a common and increasingly serious problem: our inability to compete on a level playing field with the growing number of non-union companies doing business in Ontario.

I want to say at the outset that coalition members have enjoyed long and excellent relationships with unionized labour. In recent years, however, the relationship with the building trades unions has become more strained as union bosses have refused to negotiate more competitive collective agreements to reflect a more competitive marketplace. It's not surprising, really. After all, these unions have a lock on the fully unionized employers. Under the current labour laws, they know we can't do business without them. That has given the unions the freedom to maintain high wage rates and the kinds of



unproductive and restrictive labour practices that prevent coalition members from being able to compete with non-union competitors.

**1550**

Further, their ability to weather a strike is greatly enhanced by the ability of their members to work for non-union firms during a strike. This gives them incredible power at the bargaining table.

So as a united front with a common competitiveness problem, we had to develop a united position on labour law reform, one that would shake the unions out of complacency and force them to bargain responsibly.

After a review of the options and a lot of debate, the coalition agreed that the only way to make the ICI industry truly competitive was to break the unions' unfair monopoly on collective bargaining power. We decided the most effective way to do that was by exempting the construction industry from section 1(4) of the Ontario Labour Relations Act.

Let me explain. Section 1(4) was passed in 1971 and was originally introduced to prevent employers from frustrating the legitimate attempts of unions to bargain first collective agreements following certification. As such, it prohibited a unionized employer, their relatives and senior managers from ever setting up a parallel non-union business.

Much has changed in Ontario since 1971. While the original intent of the legislation is still valid, it's unlikely the original drafters could have foreseen the kind of wide-open economy we have in the year 2000. Today, instead of serving as a necessary protection, this law gives big unions an unfair advantage by letting them escape the imperative we all face: to keep pace with a changing marketplace. By ending the prohibition on double-breasting or the ability to set up non-union businesses, the coalition believed that the unions would finally wake up and smell the proverbial coffee and be properly incented to negotiate fairly and responsibly.

Experience in other jurisdictions, notably Alberta and New Brunswick, shows that the right to double-breast is often enough to make the unions more competitive. In fact, two coalition members, Ellis-Don and Black and McDonald, have never exercised their right to double-breast in these markets; they've simply never had to.

To reinforce this point, it's somewhat ironic that in Alberta, where double-breasting is allowed, union market share is at 30% and rising rapidly, while in BC, which has a relatively strong anti-double-breasting provision, union market share is at 15% and dropping like a stone.

It's no secret that the prevailing wisdom out there among unionists is that an attempt to end 1(4) is an attempt to bust the unions. The coalition would argue just the opposite. We believe that by becoming more competitive, the building trade unions have the best possible means of ensuring their own survival and institutional growth. The natural extrapolation is that if they don't become competitive, the employers will be forced out of business because they can't compete with their non-union peers. Unionized labour will no longer have a captive

group of employers to work for, and the building trade unions will no longer have a reason for being.

In any event, over the course of the Ministry of Labour-sponsored mediation on Bill 69, which took place during December and January, the coalition did not have a great deal of success in selling our views on 1(4) to either ministry officials or labour representatives. In fact, there was a broad refusal to even consider our proposal, on the apparent basis that the unions were not prepared to discuss it. Even when we offered a significant compromise, we didn't get a fair hearing. Our compromise was to abandon our call for an exemption to 1(4) and to suggest the addition of a new section to the act. Our proposal specifically was to preserve the important employee and union protections that exist in section 1(4), fairly balance the bargaining power of unionized employers and employees, maintain about 80% of the jurisprudence associated with the current law, make Ontario's labour laws competitive with those of our key competing jurisdictions and allow for the tightly limited right to double-breast, but only where there is no transfer of work or contracts between the two companies, and only if there is not interchange of on-site employees.

The right to double-breast is, by the way, already held by both non-union companies and by unionized workers themselves. In certain circumstances, this helps non-union companies in their efforts to deal with labour-supply issues. Unionized workers by the thousands exercise their right to double-breast or work non-union jobs every day in Ontario. Their unions even encourage this selective double-breasting, especially if the extra income helps their members weather a strike against a fully unionized company.

We've given you this background today to demonstrate that the coalition had high hopes for construction labour law reform, not only because such reform is critical to our viability but also because we believed it could play an important role in preserving Ontario jobs and investment and in keeping made-in-Ontario companies working in Ontario.

Our response to the bill proposed by the Minister of Labour in this context is one of disappointment. In the main, we are disappointed that this government failed to seize the opportunity to do the right thing and act definitively to restore fairness to the collective bargaining process. Instead, in Bill 69 we have a piece of legislation that only marginally improves the status quo for employers. Enhanced labour mobility and name-hire opportunities will help some subcontractor groups but will be of little use to others. The legislated vehicle for relief from the building trade agreements contained in section 160 of the legislation adds up to a blatant oversight of universal management rights and a granting of further unilateral power to the unions. Certainly we'll be monitoring the proposed arbitration system carefully. While we are concerned that the process may be unwieldy, costly and unduly time-consuming, we are nonetheless committed to doing everything possible to make it work.

The coalition looks forward to playing a leading role in the significant review of the legislation that the minis-



ter has committed to for the fall of 2001. We'll need to evaluate the success of the bill carefully. If it becomes clear that the bill has failed to make the industry competitive, the coalition will once again be advocating for more significant labour law reform.

On behalf of the coalition, I thank you for taking the time to listen to us. We read it to get it all in. If there are any questions, we'd be pleased.

**The Chair:** I don't think so. You've taken your full 10 minutes, Mr Coleman, so there isn't any time for questions.

#### RESIDENTIAL ALLIANCE OF BUILDING TRADE UNIONS

**The Chair:** Next on the list is Mr John Marchand and Mr Petricca, Residential Alliance of Building Trade Unions.

**Mr John Marchand:** Good afternoon, Madam Chair and committee members. My name is John Marchand, and I'm the executive director of the Residential Alliance of Building Trade Unions. With me is Louie Petricca, who is the president of the alliance. I'm going to make this short for questions.

The Residential Alliance of Building Trade Unions consists of six trade unions covering work in the residential market, including shingling and siding on houses, trim work, flooring, drywall, insulation, light- and heavy-gauge metal studding, metal door frames, complete heating, ventilation and air conditioning, plumbing, electrical and the construction and service of all elevators and lifts. As you can see, the members of the alliance perform a vast majority of the work in high-rise and low-rise residential construction sectors.

The alliance was formed to bring stability and coordination to Ontario's residential market. To obtain this stability, the residential alliance has created partnerships with many of the industry stakeholders, such as the GTHBA and many of our contractor groups. For this reason, we were very optimistic when this government initiated talks to address the residential sector and many of its issues back in October 1999. Many issues were discussed, and a consensus by all parties was reached on some of these issues, which are not included in this legislation. In our brief are the points that we feel are either not covered by Bill 69 or are not agreed to by our group.

The key issue of a strike window period of 46 days does not sit well with this group. As a matter of principle, the alliance opposes any restriction on the right to strike. We believe that any legislation which impacts negatively on workers' rights to utilize economic sanctions is contrary to fundamental principles embodied in both domestic and international law and covenants.

The legislation provides for a strike window of 46 days. In our view, a 46-day window is too narrow. We believe that a 46-day window will simply chill the bargaining process, inevitably resulting in arbitration. As we all know, the best form of settlement is a negotiated

settlement. A 75-day window, in our estimation, ensures a meaningful right to strike and, consequently, limits the damage to the negotiating process that is inherent in legislative regimes where resort to economic power is curtailed.

We were told at the time of the talks by the minister's mediators that this process was based on consensus. The points where consensus was reached are not included in this legislation.

**1600**

First off, consensus was reached to start negotiations 120 days prior to the expiry date of the collective agreement, and this is not included in this legislation. Secondly, on this matter there was also consensus on a mediator being appointed at the start of the negotiations.

The next issue there was consensus on was a facilitation forum. This forum was to be a ministry-sponsored forum to run on a continuing and frequent basis. This forum was to bring to the table all the stakeholders in the residential sector to exchange information and concerns within this sector prior to negotiations. This forum alone would significantly improve the overall labour relations climate and make for effective and expeditious bargaining.

The next area of concern within this legislation is the geographic area it covers. This legislation does not fully capture the entire housing market identified in the various discussions between the ministry and the stakeholders. By excluding areas in this legislation, building trade unions and the workers they represent will be subject to different legislation schemes premised on the location of the residential projects. This matter will lead to prolonged strikes in some areas and restricted strikes in others. If this government is concerned about the negative effects of a prolonged strike on the home-buying public, this government should realize that homes are also purchased outside the four areas mentioned in this legislation.

Another area this legislation does not address is the process in place after the collective agreement has expired. In both scenarios, whether or not a strike or lockout occurs or a return-to-work has been imposed, the legislation fails to impose the normal statutory freeze.

In the alliance's view, the oversight should be corrected. The legislation should provide that upon the expiry of the collective agreement, all of the terms and conditions of the expired collective agreement should immediately become applicable and should continue until the arbitrated settlement comes into force.

The Residential Alliance of Building Trade Unions is committed to supporting and ensuring a continuing viable and vibrant residential construction industry in the GTA. We ask that the legislation be amended to incorporate the principles and proposals set out in this submission.

I thank you for your time.

**The Chair:** Thank you, Mr Marchand. We have time for questions.

**Mr Christopherson:** How much time do I have?

**The Chair:** We have about four minutes.



**Mr Christopherson:** Divided by three?

**The Chair:** Yes.

**Mr Christopherson:** Thank you for your presentation. You're not the first one to suggest that what's in the bill is not necessarily what was agreed to at the table. You see the minister here. He has maintained that he has the support of the major affiliates in terms of supporting this bill because this is what was hammered out at the table. As an observer, I'm having some difficulty understanding exactly where we are. We've got yourself and some others saying there are things in here that weren't agreed to. John Cartwright, for instance, talked about the 45 days, that that's not what was agreed to. There are demands for amendments that the union is saying are absolutely critical if they're going to reflect an industry-led or an industry-designed solution. Can you help me understand where we are in terms of the bill, the commitments you say were made and the minister says are contained in the bill? Exactly where are we heading with this thing vis-à-vis the support the minister claims exists for Bill 69?

**Mr Marchand:** I'm not sure. That's a very broad question you're asking me. As the situation goes, the forum we had was on a consensus basis. We went over many things. Some groups agreed, some groups didn't agree, but on issues that we thought were relevant, that we considered there was—and some issues weren't in the legislation. I speak for a group of six. There are other issues. There are ICI issues that are involved. I can only speak for the residential issues themselves.

As far as the residential alliance is concerned, a 45-day strike window is not enough. It doesn't help negotiations. We don't see it helping negotiations. We don't see it bringing things to closure. As far as the standpoint goes, the other issues of jurisdiction, to be honest with you I don't think it was ever really discussed. I think everyone in the room was talking about the areas they had themselves already.

**Mr Christopherson:** Where are we if there is no amendment to the current 45 days outlined in the bill?

**Mr Louie Petricca:** Basically, in the residential sector, as was noted in the past, the workers are not afraid to go on wildcat strikes, which makes it a lot harder for unions to control. If there isn't a reasonable length of time for proper negotiations to take place, I think wildcat strikes would only increase, not decrease.

**Mr Christopherson:** Which of course is the antithesis of what the Minister claims will be the result of passing Bill 69 in its present form?

**Mr Petricca:** Correct.

**Mr Gill:** Madam Chair, I know time was taken up unfairly by another member. Perhaps we'll keep that in mind next time.

Mr Marchand, I think it was great, your presentation was good. One of the things you mentioned was that perhaps 45 days are not enough for a strike period; perhaps, you suggested, the negotiations should start 120 days earlier. I think that's a fair comment. I think we may bring that out as an amendment if all parties agree. We are attuned to that.

You also mentioned bringing stakeholders together, that perhaps we should have had something in the bill. We believe that to bring stakeholders together we don't need legislation. I think that's an inherent part of this negotiation or any other negotiation. So we sort of commend you on bringing that up.

I want to make a comment on one of the speakers earlier, but at the same time it pertains here. Some of the union members use this so-called double-breasting in their own way. I've had many people come to me, very good workers, who've said, "Sometimes I work union, sometimes I work non-union." Just as a consideration for everyone, I think that's happening.

**Mr Petricca:** Just to comment on that one, we were involved in one of the longer strikes back in 1998. We charged more of our members, the ones who dared to work non-union. We reprimand these people. We take action accordingly to ensure that we do what we are there to do, and we're not afraid to discipline our members if they choose to work non-union. If they're union, they've got to work union; if they're non-union, they work non-union. We have no problem with that.

**Mr Bartolucci:** There will be amendments to the 45-day window. Trust me when I say that. We will be putting forth an amendment and I'm sure the third party will as well.

Very quickly, are you in agreement then that the regulatory power of the Lieutenant Governor, with regard to the arbitration process, is frightening at best, and should that be with the Minister of Labour?

**Mr Petricca:** The arbitration settlement should be spelled out in the legislation in a way that everybody is clear as to exactly what takes place, and not have surprises after arbitration is rendered. The arbitration process should be spelled out properly in the legislation.

**Mr Bartolucci:** Thank you.

INTERNATIONAL BROTHERHOOD OF  
BOILERMAKERS (AFL-CIO-CLC);  
INTERNATIONAL BROTHERHOOD OF  
BOILERMAKERS, LOCAL 128

**The Chair:** The next speakers are Mr Power and Mr Church, the International Brotherhood of Boilermakers. Please proceed.

**Mr Michael Church:** Good afternoon, Madam Chair, Mr Minister, honourable members. I will make some brief comments and I'll be followed by Mr Power, who will be happy to answer any questions any member of the committee might have.

We have prepared for you an extensive written brief. It's in front of you, hopefully. It's about 15 pages and it has appendices attached to it which we leave for your review later.

I'm going to be making three major points in a few moments, but first a small point. To appreciate the contents of the brief filed on behalf of the International Brotherhood of Boilermakers, and its Local 128 in Ontario, you have to read the beginning, with the greatest



respect, so you understand the particular and unique nature of the Boilermakers in Ontario, the Boilermakers' craft and the type of industry the Boilermakers operate in.

1610

I can tell you that this brief is on behalf of the International Brotherhood of Boilermakers and its Local 128. Virtually every single member of the union in Ontario and this local work in the sector of the industry that will be affected by the bill in question. In fact, virtually all of them are construction Boilermakers who work in the industrial sector, and therefore the bill affects them very dramatically. It will affect every one of them. The lodge itself is Lodge 128. It is a province-wide lodge. It is a construction lodge. Therefore, virtually every member will be adversely affected by the bill on the points that I'm going to be discussing in a moment.

The Boilermakers are in a bit of a different position than many of their brothers and sisters in the construction industry. Some 99% of boilermaker work is done by members of this union in the province, and it's virtually all unionized work. The effect of that is that the Boilermakers do all of the work in question, and you don't have the same concerns—with the greatest respect—that are present for some of the other building trades unions. There's no whipsawing or economic warfare between union and non-union in this area.

I've set out in the brief the International's relationship with the Boilermakers in Ontario and the local itself, Boilermakers 128. It is a very specialized trade. Speaking in numbers, it is a smaller trade than many of the other trades. The type of work they do is nuclear power plants, fixing boilers, welding. They are tested virtually every time they step on a job in terms of welding. They do a lot of shutdown work—blast furnaces in places like Hamilton, and shutdown work at Sarnia's Chemical Valley, that sort of thing. The trade at this point in time is experiencing shortages in finding people to enter the trade, which will impact upon a few comments I have later in the brief. You can see in the brief also, the local itself has spent a considerable amount of time, money and effort in the last few years to try to train and upgrade its workforce.

A couple of also unique points: The Boilermakers' collective agreement, applicable in Ontario and most of the other provinces—the Boilermakers' union represents Boilermakers in nine out of 10 provinces—is a national collective agreement. The national collective agreement also doubles for the provincial collective agreement. That has an important impact in this case. The impact of the bill will adversely affect a national collective agreement.

In terms of the employers, the employers are represented by the Boilermakers' Contractors Association of Ontario and the parent, the Boilermakers' Contractors Association. There are contractors' associations for the Boilermakers in every other province. As far as we are aware, there has never been any complaint to this government, or any lobbying on behalf of any boilermaker contractor association or the parent, about a

need for any amendment to the labour laws vis-à-vis the Boilermakers—not one complaint by one contractor, by one employer, by one association. That's because there aren't the same problems facing the Boilermakers and their contractors that face other members of organized labour and the other employers.

To continue on: The issues of concern to the Boilermakers are threefold. The first two issues are the specific provisions in the new legislation which allow for either employers or employer associations or arbitrators to change the collective agreement. If that is allowed to apply to the Boilermakers, it will change the national collective agreement. It will disadvantage Boilermakers in Ontario against their brothers and sisters throughout Canada. It will also change provisions in the national collective agreement which apply to national trust plans, health plans, health and welfare plans, pension plans, etc., if the compensation packages which fund those plans are changed in Ontario, because it is one national collective agreement.

The Boilermakers are also concerned that the word "significant" to describe the legal test of competitive disadvantage was taken out of the proposed bill, Bill 69. We are concerned that it would limit the ability of an arbitrator to take into account a significant competitive disadvantage. We think that should still be on the table.

I'd just like to say that the Boilermakers' collective agreement has an enabling clause. The enabling clause has been used extensively by the Boilermakers' Contractors Association and the members and the employers. It has never once been turned down by the Boilermakers in Ontario. There has been no complaint. Every time that the contractors have needed to use the enabling clause and triggered it, it has been agreed to by the union. Surely the union must get some credit for that. It does not need to go to final and binding automatic arbitration. It is a very workable enabling system that the Boilermakers have used with their contractors. They do virtually all of the work. Once the clause is triggered, everybody gets the same considerations; everybody's on an equal footing.

Last, in terms of the hiring hall, we are concerned about the hiring hall provisions, section 163.5 of Bill 69. The reason we are concerned is again because of the particular nature of the craft. The Boilermakers have a series of hiring halls in Ontario. They're located, not coincidentally, in many of the areas you would expect: Hamilton, where there are steel mill shutdowns all the time; Sarnia, the chemical plants; Thunder Bay; Sudbury, in the mining towns; that sort of thing.

The limitation on the ability of the hiring hall to continue in force will have both a short-term and long-term adverse effect on the Boilermakers, because it will limit the ability of people who are new to the profession to work in the profession. They're usually the younger tradespeople. They don't always work. The work has to be spread out. If the work is not spread out, if it's only the same group of employees who will be continually hired by the employers, those employees will get older



through the years and the newer people will leave the profession. They won't be trained. There's a shortage right now. It will get worse and worse. If they can't find work, if the work can't be shared, there will be no Boilermakers. There are no non-union boilermakers to speak of. And if there are no boilermakers, the province will lose those people who have special abilities, and I've just given you an example: welding on nuclear boilers and the reactors and that sort of thing. The shortage will get worse.

I'm not sure how much time I have, but I'll leave the brief with you, and I'll encourage the members to ask Mr Power any questions.

**The Chair:** Thank you. There's about three minutes, so if we limit questions to one minute each from each party.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** You mentioned that new people or younger people will leave the trade. What is the average age of your workforce at the moment under the present agreement?

**Mr Ed Power:** Currently, it's somewhere around 43 or 44 years of age.

**Mr Beaubien:** That's not too young, is it?

**Mr Power:** Not really, no.

**Mr Beaubien:** So to say that the present agreement is really going to impact on that—we already have a problem existing with an aging construction workforce. That would be a fair statement?

**Mr Power:** I think you'd probably find that true with all trades. We're all bringing them in now, of course. You have to remember that we went through a pretty rough time about four or five years ago when it was difficult to bring new people into the trade. Now that the economy has turned around a little bit, certainly we've doubled up on the apprenticeship efforts and what have you.

**Mr Bartolucci:** And it will only get worse in the naming, as it is spelled out in the legislation now. But I have another question. You're unique. The Boilermakers are unique. You have national agreement. You said that anything that happens in Ontario has a ripple effect nationally. Could you expand on that only so briefly—I understand—and what the solution for the Boilermakers would be?

**Mr Power:** I guess most of the changes that you're talking about in the legislation fall under what we call the master portion of the collective agreement, which has a national application. There is, of course, a provincial appendix which deals with the wages, travel times, subsistence allowances and what have you. But in any case, most of the other stuff that's contained in this legislation has to deal with the master portion of the national agreement. I guess that's going to be a problem for all the parties. You'll have to sit down to see how they're going to deal with that.

**Mr Bartolucci:** And the solution specifically to the Boilermakers would be?

**Mr Power:** Exempt.

**Mr Christopherson:** You raised the issue of 163.5 as it pertains to 163.2 and the concern that the hiring hall provisions, traditions will be affected. Again, I would ask the parliamentary assistant if we have that legal opinion yet.

**Mr Gill:** No, not yet.

**Mr Christopherson:** Do you know when we're going to have it?

**Mr Gill:** Before the end of the meeting, I'll get back to you on that.

**Mr Christopherson:** OK. Good, because if the minister recognizes that 163.5 does not in any way guarantee even the modest formula that's been negotiated, then I've got to believe that this whole thing's going to break wide open. In effect, if you can go after all the things outlined in paragraphs 1, 2, 3, 4 and 5 of subsection 163.2(4), that's just about the whole ballgame right there. There's not much left. And if that formula again is busted open and then they go so high as 100% name-hire, all those protections that I would think were traded off at the bargaining table as part of the negotiation are going to cause this thing to implode. I gather you're raising the same concern we have about whether or not the 40% and 60%, as modest as they are, are floors as opposed to ceilings.

**Mr Power:** Yes. We probably share the same concern. Probably the biggest concern that we have insofar as the name-hire business is concerned is trying to keep people in the trade when the work picture isn't quite as rosy as it is right now. We all know of course that contractors have their favourite people and keep moving them around from job to job. There are only so many man-hours we can share among them. If the guys can't make a living at the trade, they're not going to stay with the trade. Once you get another little bit of a boom that goes on, there aren't going to be the people there to be able to satisfy the concerns the owners have with respect to fixing their plants.

**The Chair:** Thank you.

*Interjection.*

**Mr Church:** That's the point.

**The Chair:** Thank you, Mr Power, Mr Church.

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## INTERNATIONAL UNION OF OPERATING ENGINEERS

**The Chair:** Mr Gallagher, Mr O'Neil and Mr Barnes, International Union of Operating Engineers.

**Mr Michael Gallagher:** I will try and be brief. It may be the first time in history I've actually kept to five or six minutes when I'm speaking, but I'll do my best.

My name is Mike Gallagher. I'm the business manager of the International Union of Operating Engineers, Local 793, a province-wide organization. With me is Gary O'Neil, who's the president of our organization; Ken Lew, our labour relations manager; and Ben Barnes, our legal counsel. You have received copies of our brief. I will be making some observations and hopefully there



will be enough time for you to ask any of us some questions. If there is time on some technical points, I'd ask Ben Barnes to address some of the problems we see with the bill as it is currently drafted.

The International Union of Operating Engineers is a province-wide local. We recently added Nunavik as a territory. We have in excess of 8,000 members in Ontario, working in all sectors of the construction industry, but also industrial and municipal bargaining units, for example, in Renfrew, Port Elgin and New Tecumseth, to name a few. We employ members who operate cranes, bulldozers, graders, backhoes, excavators and similar equipment, and surveyors. Since about 1995 we've enjoyed a very strong employment picture in most sectors and areas of the province, with a few exceptions. In northern Ontario employment has not been as strong because of the lack of spending by all levels of government on infrastructure and low prices in the steel and mining industries.

Our membership has province-wide mobility and many of our members travel outside the province for work, if they wish, not only in Canada but outside Canada. We have over the years negotiated a province-wide, all-sectors agreement, and area road builders, sewer and water main, province-wide pipeline and power sectors agreements, all of which have wage schedules for each area of the province to address local area concerns.

Our provincial agreement also includes steel erection, mechanical, crane rental, excavating, foundation piling, and surveyors, as I said. On occasion in the past, we have enabled our provincial agreement to obtain work when an employer and the employer bargaining agency can demonstrate a significant disadvantage due to the lack of union bidders on a project of large economic value to an area. We've done this in the past in most areas for general contractors, such as PCL and Ellis-Don, at least one of which makes up the group, the so-called Ontario Coalition for Fair Labour Laws. As an example, in Sarnia we enabled the Bluewater Bridge project on which Ellis-Don was a successful bidder.

In our view, Bills 7, 31 and this bill are unnecessary and have the impact of eliminating the level playing field to the employers' favour and adding a degree of complicating negotiations. Despite this fact we will support Bill 69 in principle, provided that the government does not further tilt the balance in favour of employers by further anti-union amendments, and in particular, subsection 1(4) and section 69 of the act. We encourage the government not to make any further one-sided amendments to the Labour Relations Act and point out that every free democratic nation on earth also has a characteristic of a free-trade union movement governed by fair rules.

Local 793 members alone have made multi-million-dollar contributions to a pension plan which is now in excess of \$900 million, training trust funds and benefit plans over the years. This has benefited the industry by providing a stable, highly skilled workforce in an industry which is subject to uneven employment.

The Labour Relations Act should only be amended, in our view, when true consultation among industry stakeholders takes place and absent any threats, implied or overt, by the government to either labour or management. The Labour Relations Act should not be a political football or manipulated by ideological forces within any government but should function to protect working people and their families and also be fair to employers.

We recommend that the government reinstate automatic certification when a union can demonstrate gross employer misconduct and unfair labour practices during an organizing drive. We've had members threatened and fired during organizing drives, and currently the non-union employer is rewarded rather than penalized. A simple revote does not remedy these violations.

We also recommend the reinstatement of an expedited hearing at the Ontario Labour Relations Board when an employee is fired during an organizing drive. This is only fair to the employee, who likely supports a family and has a mortgage and has only exercised his legal, human right to belong to a trade union organization. This is an injustice we would seek this government to correct.

Bill 31 and Bill 69 serve to undermine province-wide bargaining, which, when put in place in the late 1970s, brought an unprecedented period of stability to the construction industry by lowering the incidence of strikes, which happened much more frequently prior to that. Undermining province-wide bargaining will potentially bring back increased work stoppages, which is not good for any of the stakeholders.

We also recommend that the wording of the act include "significant competitive disadvantage" in an employer application if they are seeking to enable in a particular area of the provincial agreement.

Bill 69 goes too far. The language on "related successor employer" in the bill is unnecessary, since key man and blood relationship are important considerations for board panels but are not the only consideration in a related employer application.

In the residential sector in Toronto we are opposed to the limitation on the right to strike to 45 days. This will diminish the seriousness of negotiations and may lead to either useless strikes or lockouts followed by lengthy and costly arbitrations where neither side may approve of the arbitration's award. Only true negotiations followed by a settlement are likely to be respected or honoured.

We recommend that the 45-day window be eliminated in the bill and allow all agreements to be three years and expire at the same time but retain the right to strike and lockout.

Those are my observations and comments. Some of them are repeated in the brief you have before you; some are added.

**The Chair:** Thank you, Mr Gallagher. We have about two minutes. Mr Bartolucci, we'll see how it goes.

**Mr Bartolucci:** I'll be very brief. Thank you, Mr Gallagher, for an excellent presentation. With regard to amendments, you suggest that the government delete



designated regional employers' organizations from the legislation. Can you just expand on that very briefly?

**Mr Gallagher:** I think it's very unwise to add an uncertain and unknown component to province-wide bargaining, which is basically a very simple concept and has served the industry very well. By adding new regional employer associations, I think you're going to create a lot of mistrust in the bargaining process and the possibility of additional final offers being put in at the last minute, as we've said in our brief. It may have some other unforeseen—I think that really we should continue to deal with the employer bargaining agency. With Local 793, for example, when we're bargaining, we know who we're bargaining with. We're bargaining with the employer bargaining agency, and they are made up of a number of general contractors' associations around the province, for example, the Sarnia Construction Association, the general contractors' section in Toronto, Sudbury and Thunder Bay and all the various areas of construction associations.

I don't think we should put an element of mistrust in there where the whole process might be derailed or blindsided by another group that has a minimum involvement, except that they've been appointed, as I understand it, by the Lieutenant Governor, the way the current bill is worded.

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**Mr Christopherson:** You've mentioned the designated regional employer organizations; the absence of the word "significant," which in my understanding was a part of the negotiations, and most of the labour leaders who left the meetings understood that "significant" was going to be in there; and the 45-day issue.

Let me say on the word "significant" that I did have a chance to talk to the minister briefly about it, and his position is that there was difficulty in getting a legal definition of "significant" that would work.

I suggest to all who are listening that those who have lawyers and legal firms on retainer take a stab at this. If we can show reasonable language that defines "significant," it would seem to me there's no argument left for the government to say they can't put "significant" back in. I think we all appreciate the absence of it makes a huge difference in terms of the threshold that the arbitrator has to cross.

Let me ask you very point-blank, without the amendments that you've raised here, the key amendments, particularly those that were part of the consensus and negotiations as you recall them, even if Bill 69 is imposed the way it is, can it work or are we going to be headed into more difficulties on the construction front with labour and employers than before Bill 69 was even in place?

**Mr Gallagher:** It can't work the way it's worded right now, in my opinion. Maybe it can be made to work if a number of the amendments that have been suggested both by the provincial building trades and some of the others and ourselves are made. There is a possibility that it will work but there's no guarantee of that either.

## GENERAL CONTRACTORS' ASSOCIATION OF HAMILTON

**The Chair:** Next we have Mr McArthur.

**Mr Stephen McArthur:** My name is Stephen McArthur. I'm counsel for the General Contractors' Association of Hamilton. Thank you for the opportunity to make a presentation today. I recognize that you've heard a number of points repeatedly, particularly in the most recent submissions from Mr Gallagher. I'll keep my submissions brief, but I do want to say, in response to the question from Mr Bartolucci, that I would take some issue with the submission with respect to the designated regional employers' organization. I think the submission from my friend Mr Gallagher was that these organizations are somehow going to be strangers to the process. I can assure all members of the committee that that is not the case.

In fact, traditionally across the province the employer bargaining agency itself is made up of a number of local associations, Hamilton happening to be one of them, and there are others from across the province. It is common; in fact, it probably would be atypical if there weren't some local component to the provincial negotiations. For instance, virtually every provincial agreement in the ICI sector has a local appendix. Quite frankly, I think my friends in the employer bargaining from the rest of the province would be surprised if I let them negotiate the Hamilton appendix. That already takes place. My friend Mr Gallagher indicates that somehow that would be a strange component to the process; that is in fact not the case. That's what already happens and that's what works.

There are a few points I want to address specifically. I think the consensus that should be taken from our submission with respect to the bill is that while we are inclined to have some sympathy and would have been perhaps more supportive of the legislation if it had reflected some of the concerns that Mr Smith from the coalition raised earlier, if this is the bill, then we believe that it could be supported with some changes and with some amendments. In fact, I think with those amendments the bill could perhaps be made to work in some reasonable way.

First of all, I know Mr Christopherson alluded earlier to negotiations or discussions that had taken place at the table and perhaps some agreements reached elsewhere. Section 160.1, which permits at this point essentially a form of voluntary abandonment on the face of the document, is somewhat problematic to the extent that it doesn't do two things. One, it doesn't provide for a specific mechanism for ensuring that abandonment is a finding that would be made, if necessary, by the Ontario Labour Relations Board; that is, essentially it provides on its face for something that already exists, for a trade union to voluntarily abandon its bargaining rights, to agree that they have been abandoned.

Clearly, to the extent that there have been discussions outside of this room and outside of the Legislature with respect to what may or may not be the case, there are a



substantial number of contractors across the province who are similarly situated to those who perhaps played a more prominent role in discussions around the negotiations. It's crystal clear that, to the extent any contractors are permitted to take advantage of that clause—and clearly there are a number of other contractors who are similarly situated and must also be afforded the exact same opportunity—the amendment we propose is set out in our submission, in that it would treat similarly situated contractors in a similar, in fact identical fashion.

The next point I wanted to touch on was this question of the designated regional employers organizations. I've touched on it in part in my response to Mr Gallagher's submission. I think there are a couple of things that can be taken from it. First, there exists across the province, as I alluded to earlier, a number of associations that already have not just expertise but substantial relationships with the local unions, the affiliated bargaining agents with which they deal on a regular basis, both in terms of provincial bargaining every three years, and also on a day-to-day relationship that we've developed. I know certainly in Hamilton that is the case with Mr Mancinelli and others from the various civil trades.

I think to that extent not only does it make sense that the local associations continue in that role, but that they should be defined as the designated regional employer organizations because they have the expertise and the relationship and, I think, a substantial understanding of the difficulties faced locally.

The bill, through sections 163.2(1) and (2), provides for an amending process. My friend Mr Christopherson indicated earlier some concern with these five grounds being essentially the levers for opening, perhaps re-opening entirely, provincial bargaining. With respect, I don't believe that's entirely the case, if in fact the focus of the bill is on addressing competitive disadvantage, which is clearly the case, faced currently by unionized general contractors in the ICI sector.

There are two points that I think need to be addressed with respect to this portion of the bill. First, there should be added, at least in my submission, one further provision that would be open to local amendment and that would be provisions in respect of subcontracting under the ICI agreements. It is often the case, and I know my friends from the union side would agree, that there are times when a unionized subcontractor in a particular area—in some cases narrow, in some cases broader—is simply not available, or worse, where there is only one available. In those circumstances, the costs incurred become substantial. Either the contractor finds himself faced with no opportunity to provide for a unionized subcontractor because none exists, or he is forced to look at a price that is simply unattainable because there's only one. I think to that extent it would make good sense that a sixth area of amendment be added to the bill, that being a provision for addressing subcontracting clauses.

Second, I think it also would be fruitful, given the potential impact on a local basis, that the provisions in section 163.2 not be set out as the only areas. While those

five, and in my submission, six, areas should be available to the parties to negotiate, provision should be left within that section of the bill that if there are other areas, they may also be subject to negotiation and discussion. So those are a couple of points in that respect.

The interest arbitration component that's been added to the bill, the enabling process and ultimately the arbitration process—I think it's been touched on earlier that initially there is some attraction to that—appears to be a way, particularly with final offer selection, that some intractable circumstances may be addressed. To that extent, I think we are supportive.

There are a couple of points that I think the committee needs to consider. First, the experience in this province with interest arbitration is not good. To the extent that interest arbitration is a function of other pieces of legislation, like the fire department and the police service, the history over the last two years in the most recent amendments to those statutes, particularly with respect to direction to arbitrators in respect of local economic conditions, consideration of ability-to-pay issues—I think the experience has been abysmal.

To that extent, it seems to me that Bill 69 would be improved if there were a substantial direction to arbitrators that this is not merely something for them to consider; it is in fact something that must be considered and applied, leaving aside concerns around significant competitive disadvantage, that issues of economics and the circumstances around competitive disadvantage are matters which they are required to redress through their submission, so that we're not left in a circumstance which I believe and would submit still is the case with police and fire, where in fact the government's direction has largely been, with respect, ignored.

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Another matter that stems from that is that the arbitrators ultimately become the adjudicators under this bill. This is not, in my submission, simply a labour relations matter, notwithstanding the crowd you have in front of you. Fundamentally, these are issues of economics, and it would seem to me that it would be both prudent and appropriate for the government, in appointing the panel of arbitrators, to take those matters into account and, with all due respect, that the same old faces not be part of this process, that the government look for, obtain, seek out and appoint arbitrators who are well versed and well able to deal with the economics of the circumstance, both from an employer and a trade union point of view.

The last issue I want to raise deals directly with provincial bargaining. Provincial bargaining, obviously, in its introduction in 1978 through 1980, was introduced as a way of dealing with circumstances of whipsaw, where various areas of the province were effectively used as leverage against others. It's my concern that enabling panels on arbitration decisions may very well lead to that same result or a similar result if in fact it is open to a trade union to say at the provincial bargaining, "We don't need to address your economic concerns here; we can



address them through local enabling or some sort of arbitration.”

It seems to me that would allow parties to avoid the real issues at provincial bargaining where they really need to be addressed. To that extent, our submission is that it ought to be a provision of the bill that it is bad faith on the part of a trade union, or indeed an employer, to fail to deal with, or to essentially defer to enabling, any of the economic issues that are raised at provincial bargaining.

I believe I'm out of time. Thank you for your time.

**The Chair:** Thank you, Mr McArthur. There is no time for questions unfortunately, committee.

#### ASSOCIATION OF UNIONIZED GENERAL CONTRACTORS OF ONTARIO

**The Chair:** The Association of Unionized General Contractors of Ontario: Mr Geoffrey Smith, Mr Morrow, Mr Kummer and Mr Bifolchi.

**Mr Geoffrey Smith:** Thank you very much. I'll start right in, if that's OK.

My name is Geoffrey Smith and I'm with a company called Ellis-Don. But I am here, in effect, representing eight general contractors. I know that's not a large number, but let me tell you, if my group had been here in 1982, we would have been 288 strong. The fact is, because of a strange twist, almost a legal aberration, in our view, there are only eight of us left in business. The rest have either gone bankrupt or been forced out of business and have just given up working. The reason for this is that approximately 30 years ago, in the 1960s and some in the 1950s, these general contractors signed an agreement in Toronto in order to hire men—and of course they were men then—from the trade unions. That was back when the entire industry was unionized and it was a reasonable and rational thing to do. Much later, in fact around 1990, the Ontario Labour Relations Board twisted this agreement and interpreted it in such a way as to require these companies to be fully unionized, to employ only union subcontractors, wall to wall, across the entire province.

I want to be clear about this. These contractors are now bound by 18 unions, even though they have never been certified by these unions, even though they have never voluntarily recognized these unions and even though they have never employed at any time a single member of these trade unions. The result, as I've said, is that we used to be approximately 300 strong and there are eight of us left.

I am here today to ask you for relief. Outside the greater Toronto area there is no work to be had by this group. Ellis-Don used to be a province-wide contractor. We are now confined almost exclusively to Toronto. Inside the greater Toronto area there is a boom happening right now, and I'll grant you it has given us a temporary reprieve, but when it's finished, so are we. We are in

desperate straits. That's not hyperbole; that's the way it is.

I want to tell you that no other general contractors in the province have this problem. Some will be here before you with legitimate competitive grievances. Are they serious competitive problems that these contractors have? Absolutely. Does this legislation go anywhere near where it's necessary to address these grievances? With respect, I tell you that it does not. But do their problems compare to our problems? The answer is no. That's why there are only eight of us left.

Likewise, you will hear from some subcontracting associations that want to, and will tell you that they need to, have the mere eight of us continue to be bound exclusively to them in order for them to survive and prosper. Some of these fellows are friends of mine, but I have to tell you, we disagree on that point. What they are asking for is a one-way monopoly. These subcontractors are free, and should be free, to bid to non-union general contractors. They can participate side by side with non-union subcontractors. They can make themselves competitive under this legislation's mechanism and they would never give up these rights. Ask them when they appear before you if they would ever give up the right to participate in the non-union sector, and their answer will be that they never would. But of course they have an exclusive monopoly with us—it's a one-way monopoly—and who would blame them? They want to maintain it.

It's been heard before, and I'll just briefly reiterate, that the union members can also double-bread. In a strike they can go work for non-union members, and when there's no union work they can go work for non-union contractors. I'm not criticizing these working men. To be clear, they don't have any choice. They work union when they can and they work non-union when they have to, but they are in effect double-breasting. Everybody in this province is double-breasting to some extent, except the eight of us, and that's why we're going broke one by one.

The new legislation does not work for us. Our clients want us to get prices from all of the subcontractors available. When we're limited to about 10% of the market, as we are in London and Kitchener, the London Health Sciences Centre is spending \$150 million and Ellis-Don is not invited to the table. In many markets down in Chatham and Kitchener and London and around Ottawa, we can't even get union prices. I can tell you, there's a hospital that's \$30 million in Chatham that's out for tender right now. There are no electrical prices that we can use. There are no mechanical prices that we can use. We rolled up the plans today and sent them back. We were actually hoping for relief earlier; that's why we held on to them so long, but the timing is against us. Even if the trade contractors make themselves competitive with the mechanism contained in this legislation, for us they not only have to be competitive but every single one has to be low on any given tender. If there's a single non-union trade that's low on that day, we can't carry them and we're out of the picture. It really is a difficult situation.



I can honestly say, and I think it would be broadly accepted, that many of the trade unions agree that we're in difficulty and they have offered in the past to give us relief from this working trade agreement outside board area 8. We have been trying to reach an agreement with them and continue to try and reach an agreement with them as of today, but there are three or four holdouts and of course they need unanimous support and it's very difficult to get.

I am here today on behalf of the eight of us to ask you for an amendment to this legislation to exempt us, to free us from this working trade agreement. It has killed 300 of our compatriots, and on behalf of the last eight we are asking for a last-minute reprieve. I have to tell you that I'm hopeful and confident that this committee will give us that required amendment to allow us to keep working.

Those are my comments. I'm not sure where we are for time.

**The Chair:** Thank you, Mr Smith. We have about four minutes so there should be enough time for questions around the table.

**Mr Beaubien:** This is a very complex issue. I certainly sympathize with some of the points that you've raised today with regard to a union worker being able to double-breast somewhere else. A person has to make a living. That's the problem we're facing and that's the dilemma that this government is facing. I hear on the other side that this is too restrictive. I hear from your side that it's not restrictive enough, that we should go further.

If we look at what happened in 1997, I think there was some proposal put on the table during the discussion on Bill 31. I know that your organization or representatives from the eight general wanted us to go further with the legislation. We took a middle-of-the-road approach and maybe it wasn't perfect, as Mr Samuelson said in his opening statement, and does not solve everything. But somehow between the unions, the general contractors and the government, we must be able to find a middle-of-the-road solution somewhere.

1650

It's not going to satisfy the criteria 100% on either side, but somehow there's got to be something, somewhere. I look at my workers in the Lambton-Kent-Middlesex area who haven't had the opportunity to work locally. They've had to travel out of province, out of the district to make a living. That also is not fair for them. How do we resolve this? I hear from you, "That's not enough." I hear from the other side, "It's not enough." How do we resolve this thing? It's a complex issue.

**Mr Smith:** It is a difficult issue, I'll grant you, and what makes it more difficult and in my view nearly impossible is that to come to an agreement—and we have worked very hard to come towards some kind of agreement or middle ground—you need almost unanimous support for an agreement on the trade union side, which is very difficult to get, and you have to bring together the different interests of the trade contractors, the general contractors and different groups, which is also difficult. To bring them all together is nearly impossible.

With respect to the legislative amendment we are here asking for from you today, we are, we think, as close as we can get to general agreement that it is fair, reasonable and just. But can you get absolutely everybody to sign on? It seems to be difficult. We've worked very hard at it.

I guess my bottom-line answer to the question is, you get people as close as you can and then the government has to make a decision.

**Mr Bartolucci:** I have a very quick comment and then a question. I've done a lot of reading on this and it's my understanding that in 1997 the building trades provided an option that was a solution, but it wasn't the building trades that opted out, it was your group that opted out. That's some reading I've been doing, whether that's true or not.

I think everybody around this table is concerned about this piece of legislation. If you, as one of the general contractors who clearly want to get rid of 1(4), are saying this is not workable legislation, and if in fact we haven't heard from many of the building trades or the trades that have said it's going to be workable legislation, Mr Smith, I want to know who is the loser and who is the winner in this legislation. Every legislation has a winner and a loser. In your opinion, who wins most in this legislation?

**Mr Smith:** I'll answer your question in a second, but let me just address your comment. You're right about what happened in 1997. There's never been any question about it. It was not the generals who pulled out, it was one of the trade employers' side, the electrical contractors' association, that pulled out, and then the electrical union pulled out immediately thereafter, which just enforces the point I was making earlier: It is extremely difficult to bring everybody together and get a unanimous agreement, which is what is required.

Who's the winner and who's the loser? We are clearly losers in this deal. We were looking for relief from this agreement and the legislation as written today does not provide for it. It depends on your value system. We were looking for substantial relief to level the playing field and to provide incentives to help us get competitive. That didn't happen.

The trade unions didn't like it. I believe they were substantially the winners because they were able to avoid coming to grips with those competitiveness problems.

There is a mechanism and we have to see how it works, but the mechanism does not work for the generals, and I'm telling you, sir, with respect, we are the clear losers here.

**Mr Christopherson:** There are a number of issues the unions have raised and have said that if there were amendments to them, there's a possibility they think Bill 69 might work, that it's worth at least a shot rather than allowing the government to fire off 1(4), which obviously the unions don't want for a whole host of reasons. Some of those issues are around the word "significant," in terms of competitive disadvantage, the 45 days, some issues around the process of the arbitration.

In your opinion, is it worth the government looking and listening to the unions in terms of these specific



issues if it means it gives Bill 69 at least a shot, bearing in mind that the unions say that, as is, 69 just plain won't work on a day-to-day basis in your very complex industry?

**Mr Smith:** There's nothing in Bill 69 as it's written that gives us any relief or any ability to compete as generals. If it doesn't work for the unions and somehow it died, it would leave us in the same horrible position we're left with if it passes as it's currently proposed.

If there are improvements that can be made—I'm not that familiar with the 45 days, but I think that's only residential and it's not a market that we participate in. I'd have to agree with the comment made with respect to the word "significant." You're either competitive and you can get low and bid on work or you can't. If you're 5% low, if you're 5% off the mark, and you say, "That's not significant," you're still not there. So with respect, sir, I'd have to disagree with that. There's been lots of talking. I'm always prepared to talk, so I don't want to foreclose on that.

**The Chair:** Thank you for coming.

ONTARIO HOME BUILDERS'  
ASSOCIATION  
DURHAM REGION HOME BUILDERS'  
ASSOCIATION

**The Chair:** The next speakers are Mr Brent Easson, Mr Hocker and Mr Koebel from the Ontario Home Builders' Association.

While you're coming up, I would just ask members of the audience, you've been very patient and I appreciate it, but if you have cell phones, would you turn them off. They can be disruptive to proceedings.

**Mr Murray Koebel:** Good afternoon. My name is Murray Koebel. I'm here with Brian Collins from the Durham Region Home Builders' Association. I'm here as the immediate past-president of the Ontario Home Builders' Association. I'm also a past president of the Greater Toronto Home Builders' Association, and I sit on the board of directors of the Ontario New Home Warranty Program. For what's it's worth, I'm also a resident of Etobicoke.

I'm a practitioner in the greater Toronto area. I'm a residential builder operating in this marketplace. I'm familiar with the strikes and related matters affecting the housing industry, and that's what I'm here specifically to talk about.

The Ontario Home Builders' Association represents approximately 3,400 member companies across Ontario, including builders, contractors, trades, suppliers, professionals and others.

One of the main purposes of our presentation today is to state that we strongly support the notion of a 45- or 46-day strike clause or provision for our industry, followed by mandatory arbitration.

Unionized contractors and builders have, in our opinion, been put at a disadvantage through an outdated collective bargaining system that has not been responsive to

the changing environment in our industry, and the residential industry specifically. Unionized contractors and subcontractors are subject to common province-wide agreements or district agreements with trade unions which can create instances where there are competitive disadvantages with non-unionized contractors. This legislation, we feel, will level the playing field and help increase competition, which is always a benefit to the consumer and the home buyer.

What happened during the summer of 1998 was that the protracted, many months of strikes on a sort of stacked basis crippled the home building industry, especially within the greater Toronto area. With six consecutive strikes by various trades throughout the prime summer building season, our industry literally ground to a halt. This meant no new homes were being built. Manufacturers and suppliers and other affected people were forced to lay off their workers. Home buyers in particular, the public, were burdened with additional cost delays and serious inconvenience, which is a prime motivator for our purposes here.

We are reliant upon a host of different trades to construct homes, and the system in place created a situation where I don't think anyone really benefited; I think everyone suffered. By passing these amendments in the bill, all construction trade agreements would expire at the same time and allow for a maximum strike period of roughly six weeks, after which binding arbitration would be utilized to resolve the disputes. This creates a situation in which the home buyer will have a more certain level of clarity and confidence in the home buying process, and home buying, as you know, is a major industry in this province.

The home building industry is a major contributor to the Ontario economy and this amendment will bring a greater amount of stability to everyone involved, including the unions, employers, employees, manufacturers, suppliers, and especially the new home buyer.

I've got some other facts here. First of all, we support the inclusion of an amendment to include Durham region and Simcoe county in the agreement and I think Brian will say a few words on that.

The proposed amendment would not make sense to this whole piece of legislation unless there was a clear consumer benefit that was demonstrated, and I think that's what this will do with this 45- or 46-day strike clause in particular.

**1700**

Our industry is nothing like other regular manufacturing operations or facilities such as an automobile plant or a shoe factory or anything of that nature. The residential construction industry consists of approximately 4,500 to 5,000 registered builders that are registered at the Ontario home warranty program. The industry will build close to 70,000 units this year in the province, and about half of that will be in the GTA. The problem is centred, for the most part, in the urban areas. However, the non-unionized sections of the industry watch the wage settlements that occur and use them as a benchmark for labour costs in their jurisdictions or in their municipalities.



A typical new home or condo project has about 35 to 40 trades involved of one skill level or another. In the GTA, roughly half the trades are unionized, and it's a growing sector, the unionized sector, especially where large-scale building operations take place. It's especially prevalent in high-rise condos, but low-rise residential construction has been increasingly unionized over the last five or six years in particular.

Our construction work is primarily done in the field, so to speak, other than some manufactured components which are generally applied, so we've got lots of varying weather conditions. Strikes, depending on the weather conditions, also can have varying effects.

The potential stacking of strikes, which really is the notion of one strike occurring after another after each one is individually or progressively settled, whether created inadvertently or otherwise, creates a devastating impact on the consumer and on the companies involved. Stacking also hurts workers in other unions or other non-unionized workers who may not be on strike but are held off of job sites, either to respect other unions' picket lines or just by the inability to be able to cross lines. One can easily see the devastating effect of this stacking if it were to spread to other urban areas outside of the GTA.

On behalf of our 3,400 members of the Ontario Home Builders' Association, I'd like to thank you again for this opportunity. I welcome any questions, but I think Brian would like to make his presentation first.

**Mr Brian Collins:** Good afternoon, Madam Chair and committee members. My name is Brian Collins, president of Durham Region Home Builders' Association.

Murray has mentioned a lot of the points that we would have brought up, so we did not include them. Durham Region Home Builders' Association has been representing the residential construction industry in Durham region since 1952. We have approximately 150 member companies with approximately 4,500 employees, including builders, renovators, professionals, suppliers, manufacturers and contractors.

The legislation before you, we feel, will be a huge step in stopping the uncertainty for both builders and purchasers. Our association does support it. We support the intent of the legislation to avoid stacking of strikes and agree with the idea of the 45-day strike period, as this protects many of our members and customers. There is, however, one geographical area that Durham Region Home Builders' Association would like to see added, and that is Durham region. It is a large part of the building industry area within the GTA, and our association feels strongly that we would be at great risk should we not be included as part of this legislation's geographic coverage area.

Although the Durham region is mostly a non-union sector, during the last round of strikes in 1998, Durham region was targeted at both union and non-union sites. We felt its effects throughout the various municipalities, from the city of Pickering in the west to the municipality of Clarington in the east. Therefore, we recommend that this legislation be amended to include Durham region.

I thank you for allowing us to present our views.

**The Chair:** Mr Koebel and Mr Collins, I see that you're both down for 10 minutes each, so I take it you've combined your presentation in order to speed things up a little.

**Mr Koebel:** Yes.

**The Chair:** OK, then, we'll go to questions. We have about five minutes.

**Mr Bartolucci:** Gentlemen, thank you very much for your submission. I understand where you're coming from. I don't agree entirely with what you're saying, but that's fine.

You've heard from other presenters today, and certainly yesterday, and you'll be aware that there's much concern in the industry from unions with regard to the 45-day strike rule. You said it was an archaic system of negotiating and bargaining. The reality is, though, from a personal observation as one who worked as a labourer in the industry, unions have no more power than they had 80 years ago. The only right a union has is to withdraw its services to fight for better working conditions or better wages. That's not archaic; I think that's timeless. Would you clarify for me what you mean by "an archaic system."

**Mr Koebel:** Certainly. I think what we're really talking about in the low-rise residential industry is that—and I'll make the distinction once again from the auto plant. In the auto plant you may have—and I'm not entirely sure, because I'm not in that industry—but typically when I hear that there are strikes there—and we recognize the right to strike and the right to bargain and all the rest of that. But in the auto industry you generally have two or maybe three unions that would blanket one of these plants. In our industry we have about 15, and I mentioned before that there are approximately 35 to 40 trades. There's a tendency for more and more of them to be becoming unionized, which is their right, and that's fine.

The problem for us is where—and most of the contracts tend to expire more or less April 30 or May 1, depending on the wording. I've been building houses for 25 years, and I can't tell you how many years—the last three or four or five years, other than 1998, weren't quite as bad because it was such tough times that I think there was a serious co-operative level that was occurring between employers and employees in terms of bargaining. Over many other years, pretty well every year there were strikes. Half the trade unions were negotiating one year and the other half were negotiating the other year. About five or six years ago they all got on to the three-year cycle, and I believe that was a benefit for everybody. Of course, we're now at the end of the second year. We're just beginning the third year of the three-year contract right now. That's why we think it's important for this legislation to come forward, so that by the time we all get to next spring, we all know what we're facing.

The point is that we have these 15 or so unions, all of whom have the right to strike, which is fine, but what happens is when they go out one after the other after the



other, it just gets to be a very long, drawn-out situation. That's what makes it quite different than almost any other type of manufacturing plant or anything else that has union structures in it.

All we're saying is, the effect of this legislation and this potentially negotiated 45- or 46-day strike clause would be that everyone goes out at the same time; everyone is subject to the same kind of negotiation from the same arbitrator. In other words, one guy doesn't get 5% and 4% and 3% increases, and the next guy says, "I think I'm a better trade, so I want 6% and 5% and 9%," and this variety of different structures that happen, one up-scaling on the other and brinkmanship and one-upmanship. We think there should be an across-the-board settlement made. It should be done in an organized fashion.

I think the consumer is the ultimate beneficiary here. One way or the other, if the house doesn't get built, we'll build it later. So it's not like the work goes away. The union knows that and we know that. But the ultimate group that's going to benefit really is the consumer by not having to go through—especially in the summer months, which is when we all want to be building. The trades really do want to be building then, and so do we.

We believe that our membership at OHBA blankets all of these groups. We have unionized and non-unionized contractors, builders, professionals and others that we blanket as our total membership. So I think we have a unique voice.

I think one of your points was that I mentioned the "archaic" legislation. It's archaic in the sense that, relative to our industry—which, as I mentioned, about five or six years ago became more and more unionized, especially GTA-centred. Prior to that, when there were only very few unions, it was mostly builders' labourers that were unionized. Through that, agreements became extended whereby builders have been required to hire other unionized trades, which is fine if that's what the agreements are. But the whole stacking effect is what becomes so unreasonable and affects the public so badly. It affects everyone. Other workers who don't want to be on strike or who aren't on strike end up going out also. It's a real conundrum in the low-rise industry which I believe is unique.

1710

**Ms Shelley Martel (Nickel Belt):** I should begin by saying that my colleague Dave Christopherson, who is our critic for the Ministry of Labour, had to leave. He has an event this evening, so he apologizes that he will miss some of the other presentations.

Thank you for coming today. I want to deal directly with the issue of the 45-day limit. I heard you say very clearly to Mr Bartolucci that you do recognize the right to strike, except I'd have to argue that under the proposals that are before us, in essence that right has been removed. I don't see where there's any incentive to negotiate or to bargain in good faith if everyone knows that after 45 days you can head out to the arbitrator.

Where is the right to strike under the changes? What guarantees do we have that there will be any really serious—maybe tough, but serious—negotiations that will occur in this sector after this? It seems to me much more likely that what you're going to see is everyone out for 45 days and then everyone to the arbitrator.

**Mr Koebel:** That may be true. Hopefully the arbitration system that's set up will be very fair. I think we want that, I think the unions want that, and I think the public wants to see that that's the case. I think that beyond 45 days it's severe enough that everyone ought to have an incentive to settle. If they don't, then they're probably at serious loggerheads and it would have been a really bad year for all parties anyhow. It's probably best to go to an arbitrator in a case like that.

I don't think it does take away the right to strike, because the 45 days is still incentive enough. I don't think the workers want to be out for 45 days. They've got mortgages to pay, and the companies have interest payments to make and homes to deliver and business to carry on. So everyone has an incentive. Forty-five days is nasty enough, and that could probably be extended to even 60 days by virtue of the way the strikes begin to occur or maybe they're not announced on the first day possible. We hope that minor abuses don't take place. We think it's a reasonable number.

If someone said it had to be two weeks longer to make it even more severe, then maybe that's an answer worth considering. But we think that 45 or 46 days—I understand there's a recent change to make it 46 days—is a reasonable number that also affects how the public is affected by all of this. At the end of the day, who's paying all of our bills? We're selling products that the public is buying. That's who's paying the workers, that's who's paying the companies, and that's the affected party.

**Ms Martel:** You mentioned that you hoped the arbitration process—

**The Chair:** Sorry, Ms Martel. We're running out of time and there's one question from Mr Beaubien.

**Mr Beaubien:** Thank you for your presentation. First of all, let me thank you for saying—you're probably one of the few groups in the past day and a half that's said this—that you can live with this agreement almost 100%. That's kind of good news to hear.

You mentioned in your presentation that you have anywhere from 30 to 40 different unions to deal with. I would imagine that it must be difficult at times to coordinate all these groups, and yet you seem to be able to live with Bill 69. We heard from the eight general contractors that they don't seem to have the same ability to live with this agreement. What's different here?

**Mr Koebel:** We're aware of their desire. It's not part of our presentation today, but we have a letter on record supporting their position, supporting the removal of subsection 1(4), which is the right to double-breast. It's probably not as big an issue for us in the low-rise residential. Our issue is more concerned with the public. If I may correct one little point that you made there, we



have about 35 or 40 trades; only about half of them are unionized.

**Mr Beaubien:** But you have union and non-union—

**Mr Koebel:** We have union and non-union, both contractors and builders, within our membership lists, so some of our members are able to operate, some aren't. For example, at the present time concrete drivers are out on strike, and it affects non-union companies as well, even though they don't have any specific collective bargaining agreement with the union.

Our industry works pretty much on the total basis of contracting out to subcontractors and subtrades. So when you mention about our being able to organize and manage the relationship with these 35 or 40 trades, it's by virtue of the effect of contracting out. We would hire concrete forming companies or roofing companies, and they're the ones that really have the specific direct agreements. We're almost an indirectly affected party, the OHBA membership, the builder sector. Some of our members are directly affected, but many are indirectly affected by the effects of these strikes, especially manufacturers and others. If someone's making kitchen cabinets but there's no home being built to put the cabinets in, they have to lay off too. Even though it's only temporary, there's still an effect that happens.

Once again, we are unique in that we're not a single plant where there's a single picket line. There are hundreds and hundreds of sites across the GTA and, of course, across the province.

**The Chair:** Thank you, Mr Koebel. Thank you, Mr Collins.

#### ELECTRICAL CONTRACTORS' ASSOCIATION OF ONTARIO

**The Chair:** Mr Eryl Roberts and Mr Scott Thompson are presenting the Electrical Contractors' Association of Ontario. Good afternoon, gentlemen.

**Mr Eryl Roberts:** Good afternoon. My name is Eryl Roberts. I'm the executive vice-president, Electrical Contractors' Association of Ontario and the secretary for the Electrical Trade Bargaining Agency of ECAO, the designated employer bargaining agency under the act. With me today is Scott Thompson of Hicks Morley, counsel for the ECAO and the Electrical Trade Bargaining Agency.

The Electrical Contractors' Association of Ontario represents approximately 700 electrical contractors in the province who employ up to 13,000 electricians. The Electrical Trade Bargaining Agency, as I've mentioned, is the designated employer bargaining agency under the act, representing our unionized employers in bargaining with the International Brotherhood of Electrical Workers. The IBEW-CCO is the designated employee bargaining agency under the Labour Relations Act. They represent the electricians, electrician apprentices, lineworkers and lineworker apprentices with whom we negotiate.

The members of ECAO generate over 14 million work hours of employment annually in the unionized ICI sec-

tor of the construction industry and, according to the figures of the Ontario Construction Secretariat, are the largest membership group of the ICI sector. The ECAO has also been a member of the Coalition for Fair Labour Laws and supports the coalition in its efforts to achieve legislative change. Although the coalition has not achieved all of its goals through Bill 69, the ECAO does support the government and its current legislative initiative as a first step in the direction of enhancing the competitiveness of the unionized construction industry.

The ECAO supports the government's initiatives on hiring and mobility. One of the major competitive barriers for unionized construction is the union hiring hall and its administration. Frequently the tradespeople referred to a contractor through the hiring hall do not have the qualifications to do the job. The traditional hiring hall refers workers to contractors based on the length of time the worker has been unemployed, without regard to the worker's specific skills, suitability for the available work or previous work history, on the theory that all tradespeople within a trade are equally qualified.

Contractors are frustrated by the inability of the hiring hall to meet their need for tradespeople with the appropriate skill sets to perform the available work. The government's initiative is intended to address these concerns by providing contractors with the right to select up to 60% of the employees it will employ each time the contractor goes to the hiring hall, which will allow the contractor to match the appropriate skill sets of the employees to the work to be performed. There are numerous competitive advantages to this legislative initiative. Most importantly, this initiative will encourage unionized workers to obtain the skills and additional certifications needed to perform the available work and will reward the initiative of those unionized workers who obtain those skills and additional certifications.

#### 1720

In a joint survey of 13,000 IBEW members, the majority of respondents expressed dissatisfaction with the current hiring hall system in which the union controls who gets referred and the employer has no input into who is selected. In addition, a survey of electrical contractors revealed that many small contractors were reluctant to seek new work opportunities that would require them to go to the hiring hall for additional employees. This reluctance arises from the concern that the quality of workforce they will obtain from the hall is uncertain, which increases the risks associated with tendering work in a new area. Having the right to select up to 60% of the employees it will employ each time the contractor goes to the hiring hall, which will allow the contractor to match the appropriate skill sets of the employees to the work to be performed, will significantly reduce risks associated with tendering new work and increase the work opportunities for both unionized contractors and unionized workers. The ECAO supports the government's initiative to address these concerns.

In our experience, a second major competitive barrier for unionized contractors is the fact that they cannot



transfer their core workforce from one geographic area of the province to another. As a general rule, unionized contractors moving from one geographic area to another are only entitled to bring one or two of their existing tradespeople to supervise an entire crew that must be taken from the local hiring hall. This means that skilled workers who are familiar with how a contractor operates cannot be transferred from one jurisdiction to another. The government's initiative to give contractors the right to select up to 40% of the employees needed to perform a contract from outside of the local area in which the contract is to be performed addresses this concern. A contractor's business is only as good as the tradespeople the contractor employs. Province-wide mobility is particularly important when providing continuous service to provincial and national clients where the expertise of the core workforce is needed at client locations in various union jurisdictions across the province. At the same time, the cost of transferring workers from one location to another naturally limits the number of workers who can be transferred economically.

The government's initiative on local modifications to a provincial agreement provides an avenue for contractors to address competitive barriers in local markets that are preventing contractors from obtaining work in a particular market or location. Our experience with market recovery programs has demonstrated that they can be effective if the participants have the necessary incentive to address the concerns. The ECAO believes that the provisions of Bill 69, which provide a mechanism for local modifications to a provincial agreement, do provide the necessary incentives. The concept of a designated regional employers' organization, however, needs to be refined to ensure that there is only one designated regional employers' organization for each affiliated bargaining agent and that each designated regional employers' organization can only seek local modifications in the jurisdiction of the affiliated bargaining agent for which it is designated.

The ETBA—the Electrical Trade Bargaining Agency—is made up of 13 area electrical contractors' associations which correspond with the geographical jurisdiction of the 13 IBEW locals. And our organization, the ETBA, would expect that they would be given priority designation as local employers' organizations.

The ECAO believes that legislative change should equally benefit and challenge all participants in the unionized construction industry.

*Interruption.*

**The Chair:** Excuse me. I have asked twice already. Please, if you would turn off your cellphones in respect for the delegations, I would appreciate it. Please continue.

**Mr Roberts:** Thank you, Ms Mushinski.

However, there is one aspect of Bill 69 that does not meet this test of balance, and that is section 160.1, which gives the union, through its designated employee bargaining agent, the right to abandon bargaining rights for specific general contractors without the agreement of those subcontractors who will be adversely affected by

the union's decision. The issue of abandonment raises grave competitive challenges for those electrical subcontractors who would be adversely affected by the decision. These challenges will not be offset completely by the provisions of Bill 69 that address hiring, mobility and the process for local modifications to a provincial agreement.

It is estimated that those electrical contractors who would be adversely affected by a decision of the IBEW to abandon the bargaining rights do approximately \$100 million worth of work for these general contractors in a year. This electrical construction work will be placed at risk without the subcontractors' consent to, or participation in, the decision to abandon. In this regard section 160.1, by not requiring the consent of both the employer and the employee bargaining agents, expropriates without compensation the existing rights of electrical contractors to do the work.

The ECAO strongly urges the government to correct this inequity by amending the legislation so that bargaining rights cannot be abandoned without the consent of all the stakeholders who will be adversely affected. Furthermore, any agreement to abandon bargaining rights should not take effect until after the expiry of the provincial agreement, so that affected subtrades have an opportunity to address the competitive issues at the provincial bargaining table and through the local modification procedure in Bill 69.

In summary, the ECAO supports the government's legislative initiatives with respect to hiring, mobility and the local modification procedures, all of which will improve the competitiveness of ECAO and all other unionized contractors. However, the ECAO objects to the ability of a union to unilaterally release a general contractor from its subcontracting obligations without the consent of the subcontractors and urges the government to address this concern.

**The Chair:** Thank you, Mr Roberts. There's probably time for one quick question.

**Ms Martel:** I wanted to deal with the mobility provision, if I might. I'm from Sudbury. It would probably be better if I were from a community that's closer to Toronto as I make this example, but let me tell you my concern. We have a major hospital project underway. Even if the provincial government agrees to contract it into smaller pieces, it's going to be very financially viable for any number of companies. What's in it for workers in my community if your firm can come and bring 40% of its workers from somewhere else and 40% of the workers who might have been on that site don't contribute to the community, aren't going to be fundraising for the local share for that project etc? I recognize Sudbury is farther away so you can say, "Well, we probably wouldn't in that case." But if it was Toronto to Sarnia, Toronto to Chatham, for example, that could well happen. What's in it for the workers in those communities who lose the opportunity to work because contractors are bringing their people with them?

**Mr Roberts:** As I mentioned in the submission, mobility is naturally limited by the cost of moving



people. Electrical contractors, if granted the kind of mobility provisions that are suggested under Bill 69, will not be flooding any other local areas with out-of-town workers and displacing those from the local area.

Second, I know many electrical contractors who are based in the Sudbury area. They do an awful lot of work outside the Sudbury jurisdiction as well.

**Ms Martel:** That's good.

**Mr Roberts:** I would certainly expect that they would bring their key employees out of Sudbury into Toronto or out of Sudbury into Chalk River and benefit as well as anyone else. Everyone thinks Toronto is the area that exports its contractors to the rest of the province. Interestingly, in the Electrical Contractors' Association it's Kitchener contractors who are the most mobile and are in most of the areas. You know, it benefits everybody; it's a two-way street. Certainly the more effective and cost-efficient the contractors are, there'll be more benefit not only to them but to the people they employ.

**Mr Bartolucci:** I don't have time for a question, I understand that, but I want a point of clarification on the record. Earlier we talked about a solution that had happened in the industry. In fact, if it had gone through, what we're going through with Bill 69 would be a redundant exercise. Mr Smith said that the unions had made concessions, the eight general contractors had made concessions and were in agreement, but that the electrical contractors scuttled the deal.

First of all, two points of clarification: Did you scuttle it and why?

**Mr Roberts:** The Electrical Contractors' Association was involved in those discussions back in 1997 and did participate in them. We were not the only subtrades that reacted negatively to the end result of the process. The reason we withdrew our support was that we were under the impression that all the benefit was going to the general contractors and none was coming to the unionized electrical contractors.

Some of the electrical contractors who are members of, say, the Electrical Contractors' Association of Toronto, the vast majority of their work is performed for those general contractors. For us to simply acquiesce to that kind of change, I would have turned a lot of my good, long-time members from \$10-million, \$12-million successful businesses into two-truck service operations overnight, and I didn't think we were in the position to do that.

**The Chair:** Thank you, gentlemen.

1730

QUADRACON ELECTRICAL  
CONTRACTING AND  
CONSTRUCTION MANAGEMENT

**The Chair:** Mr Leonard Feldt, Quadracon Electrical Contracting and Construction Management.

**Mr Leonard Feldt:** Madam Chair and members of the committee, I'd like to thank you for the opportunity to be here today.

I've got a very uncomfortable situation with regard to the Labour Relations Act as it relates to my company, which is a small electrical contracting company operating out of Toronto. The current amendments to the act, as nice as they are, do not address a lot of very serious situations and conditions that a lot of small and medium-sized contractors face. It's nice for big contracting associations to be able to stand here and tell you about their members and what have you, but take it from a guy who's in the trenches on the front line, I stand before a machine gun with nothing.

We are a profitable, mid-sized electrical contracting company and upon dismissal of a poorly performing employee, we were issued with a notice of certification on a Saturday, contrary to the laws of the Labour Relations Board. A vote was ordered within five days, although the application did not conform to Ontario Labour Relations Board rules. We were told by the OLRB: "Go hire a lawyer. Otherwise, you're unionized."

Our entire operations were disrupted. A vote was ordered to be performed at our offices, on our property, without our consent. The Ontario Labour Relations Board never verified whether the union had the minimum 40% cardholders, contrary to their own rules. On the day of voting, any employee unknown by the union was challenged. Approximately 46 workers were challenged and eight were unopposed. To this day, approximately six months later, the votes are still not counted. After the vote, the union pulled their people from our company and left our job sites undermanned.

We've incurred in excess of half a million dollars in losses due to lost productivity, legal expenses, vandalism and disruption. We're denied the right to be compensated according to the current legislation. We're denied unbiased decisions by the Ontario labour board, which worked hand in hand with the union to help them obtain their objectives. The current legislation gives all the rights to the union, but as an employer we have none, contrary to the laws of this country. We were systematically terrorized by the union, with the help of the Ontario Labour Relations Board.

We're a mid-sized contracting company who was nearly forced out of business through financial burdens placed on us by others. This was done for no other reason than to allow them to obtain their own personal interests. If we ceased operations, these people would have become a burden on society through UIC or welfare.

The problem with the current laws, which has not been addressed by this bill, is that there are no consequences for illegal applications or manipulations of the system. There's no accountability for the Labour Relations Board. The Labour Relations Board is not independent but extremely biased. Owners have no rights to manage their own businesses. Workers who do not want to be unionized are denied basic human rights through harassment at home and at work. We've had to report many instances to the police of very specific union individuals coming on job sites and to people's homes and literally chasing them down the street. Workers would be denied



the opportunity to work if a certification were to be held: "If you're not with us, goodbye."

No means of restitution for costs incurred due to fraudulent applications or manipulation of rules and procedures exists, no independent agency to verify if rules and procedures are followed, no means of appeal to an unbiased agency. Laws currently serve the interests of a special group, inhibit competition and deter investment in this province at the expense of society as a whole. Current laws discriminate between unionized employers and non-unionized employers by limiting where and whom they can work for or from.

I have a couple of solutions. They're rather radical, but you're in a very difficult situation. I think this government has begun a very important process of addressing an issue which is like a time bomb ready to go off. It will never go away; it's just a question of when it will go off. I feel I have an answer to defuse this time bomb.

Abolish the Labour Relations Board and establish a labour court. Right now, the Ontario Labour Relations Board is a bunch of political appointees, which in itself creates your own problem. If you had a labour court, such as you would have a criminal court, you would have impartial adjudicators on the bench, not representing side A or side B, but impartial.

Implementation of rules of voting equal to provincial voting standards: We currently had union representatives stand in front of a voting booth intimidating workers as they passed before them. They decided afterwards to determine who was allowed to vote and who wasn't. There was no enumeration process as there is in the provincial guidelines. They were allowed to do whatever they wanted and afterwards they decided to question if it didn't suit their purpose.

Give the right to establish a collective agreement to the workers, not to a union. We're here to represent the workers, not any business, not any union, not any special interest group. The right to a collective agreement belongs to the worker. The collective agreement shall be between the individual employers and their individual employees. It's their agreement—no provincial agreements, no multi-company agreements by industry. You don't need all the electrical contractors and all their workers to be subjected to the same agreement when the guy in Toronto has different requirements from the guy in Kitchener, North Bay or anywhere else.

Allow the use of independent arbitrators instead of expensive lawyers and court fees. Put time limits on applications: 60 days maximum from a legal application

to certification, if all rules are followed; a 45-day minimum. Right now, I'm in the position that, six months later, no decision has been made. People can play whatever games they want; there are no rules. They just make them up as they go.

What would the effect of my solution be? You'd promote competition for employees between employers. This electrical contractor may have a better package than that guy. The employees can move freely among whom they want. It doesn't mean I'm forced to provide a guy with gold shoes if I can't. If that guy can, let them go there. The strongest will survive.

Promote competition for work within any specific industry without discrimination. There's no reason why a union guy can't compete with a non-union guy, as long as everybody's taken care of. If his men are taken care of, they'll be happy. It allows for specific issues to be addressed between owners and employees, regardless of region, municipality or industry. It promotes fairness and accountability in implementation of rules and procedures. It allows an avenue of dispute resolution by impartial and unbiased adjudicators, reduces business and industry disruption and actually promotes harmony, increases working conditions and provincial standards without government intervention. Water will find its own level. You don't have to push it there.

It effects the elimination of animosity between unionized and non-unionized companies to allow them to work in harmony in any industry. You may want to call it double-breasting. I don't believe it to be. What I really believe is, any worker has a right to the best possible working conditions and wages that he can have with any given, specific employer. If the employer is unable, he's unable. If another employer is able, let him do it, let them go. But what we've got right now is a problem and the problem affects everybody by putting people out of business, intimidating them. Who really wants to become a member of an organization that hires goons to get members? I don't believe that's in anybody's best interests.

I thank you for your time.

**The Chair:** Thank you, Mr Feldt. Actually you did take the full 10 minutes. I appreciate your coming.

Ladies and gentlemen, thank you for your time and your patience and the excellent level of presentations this afternoon. This committee is adjourned until 3:30 tomorrow afternoon.

*The committee adjourned at 1741.*

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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 18 May 2000

# Journal des débats (Hansard)

Jeudi 18 mai 2000

## Standing committee on justice and social policy

Labour Relations Amendment Act  
(Construction Industry), 2000

## Comité permanent de la justice et des affaires sociales

Loi de 2000 modifiant la Loi  
sur les relations de travail  
(industrie de la construction)



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

Présidente : Marilyn Mushinski  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Thursday 18 May 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Jeudi 18 mai 2000

*The committee met at 1537 in room 151.*LABOUR RELATIONS AMENDMENT ACT  
(CONSTRUCTION INDUSTRY), 2000LOI DE 2000 MODIFIANT  
LA LOI SUR LES RELATIONS  
DE TRAVAIL (INDUSTRIE  
DE LA CONSTRUCTION)

Consideration of Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry / Projet de loi 69, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui a trait à l'industrie de la construction.

**The Chair (Ms Marilyn Mushinski):** Good afternoon, ladies and gentlemen. We have quite a number of delegations this afternoon. I will remind you that delegations have a maximum of 10 minutes. You can use all of that 10 minutes as you wish. If there are a few minutes left after the completion of your submission, we will go to committee members for questions.

MECHANICAL CONTRACTORS  
ASSOCIATION OF TORONTO

**The Chair:** The first delegation is Mr Brian McCabe and Mr Neil Prestwich from the Mechanical Contractors Association. Good afternoon.

**Mr Brian McCabe:** Good afternoon. My name is Brian McCabe. I am the executive vice-president of the Mechanical Contractors Association of Toronto. Joining me are Neil Prestwich, president of S.I. Guttman Inc, and Steve Coleman, executive vice-president of the Mechanical Contractors Association of Ontario, our provincial body and employer bargaining agency.

Collectively, we represent 400 companies operating primarily in the industrial, commercial and institutional sector of Ontario's construction Industry.

To assist the committee in understanding our role in the overall construction process, we felt it was important to note that the mechanical portion of a typical ICI construction project includes anywhere from 40% to 60% of the total construction value and is usually the single most labour-intensive portion of any project.

Mechanical contractors are general contractors in their own right, in that a typical mechanical contract often includes anywhere from six to eight subcontracts with

respect to sheet metal, refrigeration, sprinkler, fire protection, insulation and system controls, often along with subcontracts in the electrical and civil trades areas.

Our association has worked with the government over the past six months in discussions leading up to the introduction of Bill 69. Our position throughout these discussions has focused on the need for legislation embracing improved management rights as a source of added incentives for fairness, effective bargaining and improved competitiveness in Ontario's ICI construction industry.

Clearly, and to our disappointment, Bill 69 has overlooked this approach to dealing with our industry's problems, and the perception that the Minister of Labour has been conveying to the public that there exists broad management support for the content and intent of this legislation could not be more wrong.

Aside from our concern that an unduly time-consuming and difficult process approach versus a management rights approach has been taken in this legislation, of immediate concern to us is that section 160 of the proposed legislation amounts to a blatant oversight of universal management rights, a granting of further unilateral powers to construction unions, and is aimed at benefiting a strictly small and select group of general contractors.

The rationale for including section 160 does not appear to be evident. It begs the question of why it is there in the first place. No self-respecting union bargaining agent would even consider voluntarily giving up their tie to any individual contractor once that tie is in place. Union leaders work long and hard to gain these rights and certify employers or employer groups on behalf of employees. To give up those rights and subsequently allow the decertification of any employer would seem to be inconceivable.

We ask that section 160 be replaced with wording providing for certain controlled management rights for all construction employers, not just general contractors or select firms, clearly the true oversight of Bill 69. At minimum, it should be amended to require that the employer bargaining agency's approval also be required before any firm is granted relief under this section.

We also implore the committee not to support a call for special legislation to accommodate the release of a select group of general contractors, as certain parties have called for in earlier submissions. It is imperative that the committee recognize that all unionized employ-



ers face the same non-competitive challenges existing in Ontario that these select firms face, and relief for certain groups over others would be wrong. The supposed gains in competitiveness that Bill 69's enabling process generates will benefit these select firms, in whatever supposed way they benefit other employers tied to the union in any particular trade.

It is our understanding that the government intends to conduct a serious review of the ultimate impact this legislation has on our industry by December 31, 2001. We believe, however, that this review will be inconclusive, as key components of the act will have had insufficient time to determine their value, and current market conditions mean the industry will be busy and not in a position to thoroughly address lost markets and what it takes to compete in them.

Nonetheless, we look forward to playing a major role in this review and receiving the government's future support for additional legislative action where and when warranted to effectively address the lack of competitiveness and fairness in our industry.

We wish to sincerely thank the committee for its time and attention and ask for their full support of our noted amendments.

**The Chair:** Thank you, Mr McCabe. There are about four minutes left.

**Mr Rick Bartolucci (Sudbury):** Thank you very much for your presentation, Mr McCabe. You are obviously outlining some of the concerns you have with section 160 as it relates to getting out of agreements. It's safe to say that workers' incomes are businesses' expenses and that would be your reason for wanting to get out of that. Is that correct?

**Mr Steve Coleman:** Could you clarify that?

**Mr Bartolucci:** You don't want to get out of those agreements. Clarify that for me.

**Mr Coleman:** Our concern with section 160 is that we're trying to understand why that was put in the proposed bill. It seems to be written to accommodate what we understand is going to be special relief for six or eight companies. That has certainly been the understanding of the deal that's supposedly in the works. We can't understand why, for any reason, that section would be put in the bill other than for something like that. If there is going to be wording such as that left in the bill, at a minimum we want the requirement that the employer bargaining agency also can give a yes or no on whether a company escapes.

**Mr Bartolucci:** Sorry for misphrasing my question.

The other thing I want to deal with is in regard to the final offer selection. Are there any concerns with that, the way it's spelled out in the legislation?

**Mr Neil Prestwich:** My name is Neil Prestwich from S.I. Guttman. I'm part of MCAT and MCAO. We have some concerns in terms of the method in which that's going to be handled and the time frame it will take to deal with that. We also have concerns in terms of what's required to be able to put forward a strong argument for any amendments to the existing agreements. Our collective associations: Basically Brian represents MCAT,

and other than Brian and a secretary in the office, that is the extent of the association. The resources are not in-house in order to effectively put something together for it.

The second part of it is that the way the amendments to the bill are written at this point precludes any changes to the existing agreements until such time as a new agreement is in place. Our new agreements don't come into place until next year. If the review is to be at the end of next year, there is only about a six-month time frame to even begin to look at these. That's in section 43, I believe, of section 7.

**Mr David Christopherson (Hamilton West):** Thank you for your presentation, gentlemen. I've got to tell you, this whole thing just gets curiously and curiously. My background is labour and I need a program to understand where the players are. You'll forgive me if part of my limited time is taken up just trying to understand exactly what's going down here. Section 160 provides that an employee bargaining agency, meaning the union, can abandon the bargaining rights that bargaining unit holds through the union, and 160 basically relieves them from any repercussions of abandoning those rights and leaving the workers.

You're opposed to that happening. I've got to tell you, this almost could have been a union submission. "No self-respecting union bargaining agent would even consider voluntarily giving up their tie to any individual contractor once that tie is in place. Union leaders work long and hard to gain those rights and certify ... ." You'll forgive me for being so confused as to what the play is, but obviously you do not want the unions to leave your workplace, or at least you want a say in whether that happens or not. Is that correct?

**Mr Coleman:** To explain, as we mentioned in our submission, we question why a union would ever unilaterally let any employer out. What we expect is happening is that there's been a deal where some will be let go and others will be left tied, and we feel that's discriminatory to other employers in this province. As we mention in our brief, our position is that there should be management rights equal for all employers, not some kind of mechanism built in to let some kind of a commitment be played out.

**Mr Christopherson:** Two quick things on that.

**The Chair:** Just one more minute, Mr Christopherson.

**Mr Christopherson:** I've got to tell you I have a little bit of a problem with your request based on the argument that it's the workers who decide whether or not they want to join a union, and not the employer. However, I understand that in this case it may be that the unions themselves are the ones abandoning—that's the word in the law—those workers. So I have a little bit of difficulty from a philosophical approach about your request, but I certainly understand the dilemma.

It's my understanding that the other group of contractors, the eight, their opinion is that they don't even want it voluntary, that they want it mandatory that every one of them has to abandon their rights.



**Mr Coleman:** That's right, and again our position is that the same rights they get, all employers in this province should get.

**Mr Christopherson:** What are the implications for this for you as a group? We heard it from the other side.

**The Chair:** Very short, please.

**Mr Christopherson:** I appreciate that, Chair.

I understand the benefit to the eight. What's your side of this?

**Mr McCabe:** If they get the opportunity to get out, our employers then don't have the same opportunity.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Thank you for your presentation. In the second-last paragraph you mention the lack of competitiveness and fairness in the industry. Briefly, for the little guy from Lambton-Kent-Middlesex who has not dealt with labour and doesn't understand the process, if you had to put your finger on the competitiveness and fairness aspect, what would you tell me?

**Mr Coleman:** I'll give you a couple of examples. We have new upstart companies that have come into the province to compete on the same work with companies that are tied strictly to the burdensome conditions of being union. These new companies oftentimes are members of unions who have formed companies, have started a non-union company, and they're out there competing against long-standing union companies that don't have the same opportunities. You have out-of-province companies coming into Ontario, and that disadvantages companies that have been long established here.

The marketplace is different in 2000 than it was in 1971, when things like section 1(4) were brought into this legislation. You heard the comments from the coalition yesterday. We fully support those opinions. We feel the government should be focusing on management rights across the board in this legislation, not what we view as a burdensome process. It's really avoiding the real issue. We're creating a false marketplace by bringing in those processes.

**Mr Beaubien:** Would eliminating section 1(4) solve your problem?

**Mr Coleman:** Eliminating section 1(4), as we mentioned in the coalition presentation, was one option. Our bottom line is management rights. Now, 1(4) has been flagged, but there are different roads this government can move on to bring about controlled management rights that don't bring in a wide-open gain but bring in fairness to all employers, not something for eight companies and not something just for general contractors, but something for all employers in the province.

1550

## CONSTRUCTION UNIONS OF ONTARIO

**The Chair:** Mr Patrick Dillon, Construction Unions of Ontario.

**Mr Patrick Dillon:** Good afternoon, Madam Chair and committee members. My name is Patrick Dillon and

I'm here to represent the Construction Unions of Ontario. On my left is Alan Minsky, legal counsel.

Before I get into making comments on Bill 69, I'd like to make a comment to the committee, and the comment is to the committee, not to the clerk who set up the meetings. I'm quite stressed that this Bill 69—it is not a minor piece of legislation affecting construction workers and employers throughout this province. This is fairly major and we have been given 10 minutes to come in to explain how this works for us. I would take the fact that we came in here to explain how this works for us as our opportunity to educate you as to what works in our industry and what doesn't. I know it's not going to change for this time around. I know it can't all be laid at the clerk's feet, but I would say to all three political parties that in future we should be very careful to make sure that when people come in, they have the time slot allotted to them to do a proper job. I might say that if we had to stay here until 8 o'clock at night, we would have done that. If you couldn't have more days, we could have extended the period into the evening.

On Bill 69 itself, I'd like to review a little bit how we got to where we're at and how Bill 69 came forward. This issue did not start, despite what some people are saying, because a whole multitude of employers were banging at the government's door because they couldn't be competitive in the construction industry. This issue got started by eight general contractors that, as they see it, have a particular problem in the province of Ontario. Their recommendation at that time was that the government should grant "three and out" legislation and that would resolve all the competitive problems for contractors in the province. That started a furor among contractors and the unions. That was the elephant killing the ant approach to labour relations.

That discussion went on for a period of time and ended up bringing the petrochemical industry into the discussion for mega-project agreements. At the end of the day—long story short—Bill 31 came out. It did not address the particular problem that the general contractors had brought forward. It addressed an issue for our poor sisters in the Chemical Valley, who I don't think should be poor anymore with the price they're charging for gas; it looked after the banks; and it really caused stress for the unions. It made it more difficult for unions to organize, which means that it's more of a competitive problem for contractors that were here originally making their requests. I'd just like the committee to be clear on that. When you restrict the construction unions from organizing or make it more difficult for us to organize, these unionized employers are going to be at your door saying they've got competitive problems. I say that to them and I say that to you to be aware of that.

The next approach came right after the last election, in which we in the industry found a brief floating around that was put out by unnamed contractors at the time that was making an economic argument as to why 1(4) should be removed from the act. Those people who started that brief finally got some advice from somebody—some



reasonable advice—that they could not sustain an economic argument and that they should move away from that, and out they came with another brief entitled the Coalition for Fair Labour Laws. It's probably the farthest thing from fair labour laws that you could get, but once you start reading it you would see that for yourself.

I was called into the ministry, told that this lobby was going on and explained what the coalition was looking for. I suggested to the Minister of Labour—and I have to commend the Minister of Labour for listening—that we never came into his office or came to the table ever saying that there weren't some problems in our industry and that negotiated solutions are the way to resolve those problems. The minister agreed and struck an industry committee of labour and management to have some discussion about resolving the problems.

At the first meeting—and I want this to be clear with everyone—the Minister of Labour addressed the six on each side and told us that he really believed, genuinely himself, that there were some competitive problems in the construction industry, and of course we hadn't denied that. He told the unions, going to the bargaining table, that we should go there with the thought in mind that the status quo was not going to be a way of resolving our problems. He also told the employers that he realized their solution to the problem was that 1(4) was the answer but that they should go to the bargaining table looking to negotiate an industry deal because 1(4) may not be delivered to them. So that kind of set the stage for us to go to the bargaining.

It's interesting that you hear employers, and I heard one here yesterday, talking about the unions having a monopoly in the construction industry in Ontario. But they say that in one second and then in the other second they've got all this non-union competition. So where's the monopoly that the union has? I'm saying to you that in some ways we need to listen carefully to what people are saying because I think you could certainly get mixed messages, at best, of where people are coming from. I guess the one comment I'd make is that employers would think a monopoly is all right as long as they have it. Let me say that a political party might not think a monopoly is so bad as long as they had it. But anyway, the monopoly in my view just isn't something that there's a real rationale for the employers' argument.

As we got to the bargaining table, the employers' position was that 1(4) was the solution and that all of a sudden now there's an imbalance in the bargaining structure and there has to be a structural change. Everything has to be changed because the unions control everything. I'm sitting across the table listening to this and sitting across from me are people I negotiated with when I was negotiating for a trade, the electrical trade at that time. We had put a bargaining mechanism together that's not a lot different from what's being suggested here in the legislation, although I'll comment on that later on. It was a bargaining mechanism that both the employers and the union in that circumstance—and I think probably the biggest employers in the province, man-

hour-wise anyway, in one particular trade. They are spending \$300,000 and \$400,000 and \$500,000 a year advertising on the radio, and you'll hear it on 590 CHAM and other radio stations, about the great bargaining mechanism that employers have and the unions. They're sitting at the table, part of this coalition, saying that there's an imbalance in the bargaining structure. I clearly do not understand that.

So I go back again and I say that we need to be careful when we're listening to the mixed messages that I think seem to come out, and I say that with due respect. I understand people taking positions to forward their position but the problem that I see is we went to the table and had the discussions. The unions went to the table to negotiate; the employers went to the table to lobby. They never really did get off their position. I heard here yesterday where they moved off their 1(4) position; that's true that they did. But the bottom line of the position that they still had on the table was double-breasting—another number, but it was double-breasting—and the construction unions in this province are not going to stand for that.

Getting to the brief itself, I'm going to touch on a couple of things. We think we've filed a fairly balanced brief, not to say that other people haven't, but I'm going to touch on a couple of areas. That doesn't lessen the importance of the other clauses.

Certainly the designated regional employer organization mechanism that you have in Bill 69 will not work as it is. It definitely needs some changing.

The multi-employer offers to the arbitrator absolutely will not work. As I said, I was part of putting one together in the earlier years of my life where we used a final offer selector, and the way it works the best is that the employers and the unions should meet up front and decide if there's a competitive problem.

#### 1600

Within the time frames that are in the act, the next step should be a negotiation that takes place at the local level. At the end of that negotiation, if there's not a deal, they present their final positions, one from employers, one from the union, to the selector. But before they hand those final positions to the selector, they've got to hand them to one another so that the selector isn't dealing with something totally different from what the parties were talking about through their negotiations. That's the way the one works in the IBEW. In my view it has a pretty decent track record. I think the employers and the unions would say that.

The other area is in the language, the significant competitive disadvantage. We are suggesting that "significant" be put in there. There was some discussion here yesterday that it's hard to define. In our brief you'll find how it can be defined in the act. You'll also find that "disadvantage" is not defined anywhere in the act. But there are bodies that have used the word "significant" and it does have meaning. I say that in a constructive way.

We tried to file a brief that will work in the industry. We can end up disagreeing here, with the government



doing what it likes on its own or may want to do on its own. If it doesn't work in the industry, it's bad for the employees and it's bad for the employers. The only way we can go away and work together is if this mechanism works, so I suggest you take a serious look at the suggestions we've made.

**The Chair:** Unfortunately, members of committee, there isn't time for questions. We started a little late and we have a full afternoon.

**Mr Dillon:** I've got all kinds of time.

**The Chair:** Thank you, Mr Dillon. Mr Don Cameron and Mr Paul Charette.

**Mr Christopherson:** On a point of order, Madam Chair, while they're coming to the table: Once again, I think for the third time, to the parliamentary assistant: the legal position of the government vis-à-vis 163.5 and 163.2?

**The Chair:** That's not really a point of order, Mr Christopherson, but I'll allow a little leeway if you would like to respond to that, Mr Gill.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** We don't have an answer yet. It's a complex issue. I've been in touch with the policy people. We do intend to bring that forward very soon but I don't have an answer for you right now.

**Mr Christopherson:** You know what? That tells me that what I was told is not the case, that it's not going to hold up, and I would strongly suggest to the unions in here that they start paying close attention to that because the implications for this bill are serious.

**The Chair:** This is taking time from delegations, Mr Christopherson. We have to move on because we only have until 6 o'clock.

**Mr Bartolucci:** Just a very short point of clarification, Madame Chair: That was promised to the committee and it was my understanding it was going to be here before the end of the day today. Will it be here before the end of the day?

**Mr Gill:** No, it will not be. We don't have an answer yet. We don't want to give you some hurried answer. We're trying to investigate. We're trying to find out what's best.

**Mr Christopherson:** Start worrying.

**Mr Gill:** I don't have an answer for you today. Will it be here before the hearings are over? Yes. Absolutely.

**The Chair:** Members of committee, the longer you take to debate this, the more time you're taking away from the delegations. I would like to move on, please.

#### ONTARIO GENERAL CONTRACTORS ASSOCIATION

**Mr Paul Charette:** My name is Paul Charette. I am the chairman of the Ontario General Contractors Association and the president and CEO of Bird Construction, an 80-year-old company operating in Canada in five provinces.

**Mr Don Cameron:** I'm Don Cameron, president of the association since 1990, and formerly a contractor.

Just by way of background, the Ontario General Contractors Association members build some 75% to 80% of the industrial, commercial and institutional work in Ontario. The association was founded in 1939 by and for general contractors. Our membership includes small, medium and large firms from across the province. Members are a mixture of open shop, plus or minus 60%, those signatory to one or more trade agreements, about 30%, and those bound to an all-trades agreement, some 5% to 10%.

In 1990 membership was 60% unionized firms, which has now dropped to less than 40%. Some of the well-known unionized general contracting firms that have disappeared include EGM Cape, Bradsil, Jaltas/Janin, V.K. Mason, Matthews, Mollenhauer, Milne and Nicholls, and Varamae. There are many others, some of them 50 to 100-year-old companies.

OGCA provides to its member firms safety and education programs, assistance in tendering and contract problems, liaison with other industry groups and with buyers of construction, and other services.

Goals of labour legislation amendments: In the speech from the throne Mr Harris gave us hope of significant change with words to the effect that the government "acknowledges the need to improve and modernize labour relations in the construction industry across the province." And from the draft paper entitled Potential Approach to Address ICI Sector Competitive Issues, from the Ministry of Labour, there were phrases such as: "addressing current concerns regarding competitiveness of unionized employers in the ICI sector of the construction industry"; "not able to compete with non-union firms in a number of markets and in a number of geographic areas, and are losing market share as a result"; "contribute to job growth and job creation"; "improve unionized construction contractors' ability to survive and compete in Ontario."

By way of comment on Bill 69, for general contractors 40% labour mobility as provided in the legislation is only slightly different than the status quo for many of the civil trades specified in agreements.

The 60% name-hire provision will be beneficial in areas where this practice is not already in place. So there's a small change there that's helpful.

Section 126 amendments regarding single employer declarations will have limited impact on a small number of firms where key man is an issue and sale of business is an issue. Legal opinion, however, is that this is not a meaningful change and that bargaining rights might still well transfer to successor companies and the goal may not be achieved.

Section 160, entitled "Agreement to abandon bargaining rights," requires agreement of the unions. There's no provision for arbitration if the union refuses, and the Ministry of Labour is apparently brokering an agreement currently under this provision that is a partial relief for a few firms but leaves many of their competitors still bound to some of the same agreements.



Section 163's local modifications/arbitration provisions may provide for reduced rates in some segments of the market but might be very difficult to implement. For example, does someone really expect that a carpenter working on the construction of an industrial plant would be willing to work on a school for the next year at \$2 an hour less when his buddy moves across the street to a hospital at the full rate?

There are provisions in the bill for the residential sector that we find might be interesting as a solution for some of the problems in the ICI sector as well.

**Mr Charette:** We have the following recommendations for amendments to the bill:

Legislation is definitely needed now to address the competitiveness issue to try to stop the declining numbers of unionized general contractors, as noted in our opening remarks.

Firms bound by union agreements where they do not employ such workers directly should be freed of those onerous agreements, as we believe contractors should not be bound to non-operating agreements for life.

Contractors should be able to run parallel union and open-shop operations in order to be competitive.

Provisions of Section 160 should be made mandatory and we recommend an arbitration process similar to sections 163.2 and 163.3.

Public bodies such as municipalities and school boards, which have construction trade union agreements, should be free to contract or subcontract out their construction work, without regard to union status of the contractor or subcontractor. For example, the Toronto school board and City of Toronto are bound to agreements that dictate they must use only union contractors. Publicly funded work should be open to all qualified contractors without regard to union status, which is in the best interests of the taxpayers' dollars.

The agreement under section 160 between the building trades and a number of general contractors being facilitated by the Ministry of Labour, must be extended such that other contractors are not left in the same non-competitive position from which a few are being granted relief.

We also recommend that, as provided for under the residential amendments, the timing of strikes be limited from the period of May 1 to June 15 for the ICI sector as well.

Thank you. That's the end of our recommendations and our presentation.

1610

**The Chair:** Thank you. We have about two minutes left for questions, so I think we'll just go to one member. Mr Christopherson.

Before you do start, Mr Christopherson, ladies and gentlemen, at yesterday's hearing I had to ask three times for cell phones to be turned off. I'm asking today politely, please, if you have cell phones, will you turn them off. They're very disruptive to both committee members and to delegates who are addressing us. So I'm asking you to please turn them off.

**Mr Christopherson:** Thank you very much for your presentation. The third point in your recommendations is that contractors should be able to run parallel union and open-shop operations in order to be competitive. Basically, that would be the de facto result of removing 1(4).

**Mr Charette:** Correct.

**Mr Christopherson:** Two questions: One, I asked an employer on the first day of the hearings a hypothetical question but it made the point, whether or not everybody in the construction industry becoming unionized eliminated this question of being uncompetitive. He answered that, yes, that would be one solution. Would you agree with that? Not that you want it or that it's desirable on your part, but if you want to remove the question of competitiveness or being uncompetitive, then if everyone was unionized, you wouldn't have this problem.

**Mr Charette:** I guess one could say that in Quebec they probably have a similar system to that and it's apparently not working well. They're looking at change to that system.

**Mr Christopherson:** My point is that the third bullet point you're asking—basically, if we take a look at Alberta and we take a look at what 1(4) means, it's the beginning of the end. One could argue that at the end of the day, and that may be two years, 10 years or 20 years, the effectiveness of the construction labour movement, in fact its very existence as we now know it, will be gone. Why would things not devolve down to the non-union wage level where things are, yes, more competitive because nobody's making as much money?

**Mr Charette:** I disagree with that point. We operate in Alberta and we operate both union and non-union, and we operate in those sectors very successfully.

**Mr Christopherson:** Common sense says that will be the end result.

**Mr Charette:** Well, it's both, union and non-union.

**The Chair:** Thank you, gentlemen.

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS CONSTRUCTION COUNCIL OF ONTARIO

**The Chair:** Mr Bob Hill, International Brotherhood of Electrical Workers Construction Council of Ontario. Good afternoon.

**Mr John Pender:** Hello. I'm sorry, Bob Hill is not here today. My name is John Pender. I'm the executive secretary-treasurer of the Construction Council of Ontario. To my right is Joe Fashion, the business manager of IBEW Local 353 here in Toronto.

IBEW-CCO is the legislated bargaining agent for the industrial, commercial and institutional segments of the electrical trade in Ontario. We represent approximately 14,000 unionized electricians, apprentice electricians, linemen, linemen apprentices and communication electricians in 13 local unions across Ontario.

The CCO wants to make it abundantly clear that from the very beginning of the industry talks which commenced in December 1999, support for any changes to



the Ontario Labour Relations Act by our organization hinged on the understanding that all contractors, whether they be general or subtrade, will remain bound to their existing collective agreements and section 1(4) of the act remains intact.

The IBEW-CCO position is that it supports Bill 69 in principle, on the understanding that the general contractors will be bound by their existing collective agreements unless released by the industry or the Ontario Labour Relations Board.

The IBEW-CCO has been cautiously supportive of these invasive and potentially destructive changes being put forward for only one reason—because hanging over our collective heads is the threat that the alternative will be the employers' position.

I'll quote from the Ontario Coalition for Fair Labour Laws, their brief dated December 1999: "The desirable solution is for the government to amend the Ontario Labour Relations Act to exempt ICI construction companies from section 1(4) of the act."

The effect of this change would be to allow double-breasting. The Ontario Coalition for Fair Labour Laws and certain employer groups have stated that the current method of province-wide bargaining places them at a competitive disadvantage in some regions or sectors of the province, which may result in unionized contractors being unsuccessful when bidding against non-union companies. These employers are of the belief "that improving and modernizing construction sector labour relations requires changing labour laws so that there's a fair balance of power between employers and unions in the ICI sector and from this change will flow collective agreements which will allow unionized companies to compete with non-union ones."

The employers are telling you that province-wide bargaining is the reason we are in this state of non-competitiveness, yet everybody in this room knows or should know that province-wide bargaining is the result of an intense lobby in the late 1970s of the government of the day by construction employers' groups, not unlike the groups that are lobbying for change today. The system of bargaining that was their panacea, to the woe of the construction industry then, is now the cause of their financial demise in the marketplace of today.

So I caution this committee to not accept everything that the employers have put forward to them as being the only solutions. I offer you another adage: those who ignore history are doomed to repeat it.

I would like to refer to the bill and give you our perspective, a union perspective, that takes into consideration our fears and concerns.

Section 163.5, subsections (1) and (2), mandatory default hiring hall practices, allows employers mobility for up to 40% of the total number of employees from any local or locals in the province required for a project anywhere in Ontario. Further, the employer will be able to select or name-hire 60% of the employees from the local union in whose geographic jurisdiction the work is performed.

I'm sure you've had examples put before you and I won't dwell on them. I'll tell you what our view is. It is that this process gives the employer the right to name-hire the same individuals for all their projects across the province and results in an unfair advantage of some members over others. It will create two economic levels in the province, the haves and the have-nots. It will pit member against member, local against local. It will create an imbalance in hiring within the province. Smaller communities, smaller locals will suffer most. You can imagine a company taking 40% of a crew into an area that has been in the grip of unemployment for a prolonged period of time. How do you think the members in that geographic area are going to react? How will older members and members who have taken on the role of stewards, health and safety representatives, fare in this selective hiring process? In our opinion, these individuals will be blackballed and subsequently they will become the sub-class who will never be selected by an employer. The end result would be a system of hiring that's based on favouritism and nepotism, rather than a fair and equitable distribution of job opportunities voted on and approved by local union members.

Section 163.2: The section gives the employers the right to seek amendments to virtually every clause in the collective agreement, save statutorily regulated holidays and hours of work. Employers can seek exemption from clauses like wage rates, overtime, benefits, travel, room and board, and requirements respecting the ratio of apprentices employed by an employer, just to name a few.

A provincial employers' bargaining association and a designated regional employers' association of the bargaining agency may apply for amendments for all work anywhere in Ontario providing at least some of their members carry on business in that particular geographic area.

Our view of that is that this section severely undermines the collective process, as the employers will have no incentive to bargain in good faith as they have an avenue to seek changes to the collective agreement outside of negotiations. In effect, this section of Bill 69 renders the collective bargaining process meaningless.

Members of the committee, I implore you to take a look at this section with great care. I suggest to you that the ramifications of an impotent bargaining process will set in motion an era of labour unrest unprecedented in this province. There will be strike after strike this coming spring if this thing goes through—the very thing that nobody in this room wants and has worked to avoid for years.

#### 1620

Section 160.1: This section allows unions to voluntarily abandon their bargaining rights. I agree with the people who spoke earlier. The view of the IBEW-CCO is that this section of the bill was created to allow the general contractors, with the union's blessing, to abandon their agreements. For the record, I want to state unequivocally that the IBEW-CCO will not voluntarily



release any contractor or general contractor from the existing collective agreements under which they currently operate.

Further, we must clearly state our objection to any government action that will release the general contractors from their signed agreements, whether it is inside area 8 or across the province. Taking this direction would put the Ontario government in the position of nullifying existing collective agreements, and we do not believe this is a correct role for any government.

Section 163.2: This section gives employers—and I would think this includes the general contractors—the right to seek amendments in our collective agreements. Members of the committee, the general contractors should have to demonstrate a significant competitive disadvantage. They should not be treated any differently than any other employer covered in this bill.

Section 163.3: This section of Bill 69 deals with a very complicated arbitration process for both parties. The union and the employer are entitled to put forward a final offer with respect to the provisions of the collective agreement that the employer association wants to amend, along with written submissions. Should an arbitrator not be agreed upon by both parties, either party may make a written request to the Minister of Labour to appoint an arbitrator. The appointed arbitrator is not required to hold an oral or electronic hearing unless he or she feels it is necessary to resolve an issue arising out of the submissions.

The only relevant factor the arbitrator is to consider is whether or not the employer organization members are at a competitive disadvantage. The arbitrator must determine if there is a competitive disadvantage and, if so, determine whether that competitive disadvantage would be removed if the collective agreement were amended in accordance with the employer's application. Our view of this is that that section makes Bill 69 designed to force unions to make concessions. There are no stipulated criteria as to what constitutes competitive disadvantage. Therefore, any or all clauses in the our collective agreements would be susceptible to arbitration.

The issue of selection of an arbitrator is also of grave concern to our organization. If an arbitrator is not agreed to by the parties, either party may make a written request to the minister to appoint one. Should an employer organization purposely not agree to an arbitrator for whatever reason, then the minister shall appoint. This raises the issues of experience and neutrality, especially in the construction industry. What further taints this process is the Ministry of Labour's apparent disdain for current arbitrators, asserting that they are biased in favour of the unions.

This process will be costly and time-consuming for both the employer and the union, and will require industry studies, briefs and experts, such as economists. There can be no doubt as to what this arbitration process will do. By design it will simply lower the wages of working union members in the province of Ontario. Thank you.

**The Chair:** Thank you very much, Mr Pender. Unfortunately, there's no time left for questions.

#### TORONTO RESIDENTIAL CONSTRUCTION LABOUR BUREAU

#### METROPOLITAN TORONTO APARTMENT BUILDERS ASSOCIATION

**The Chair:** Mr Lyall, Metropolitan Toronto Apartment Builders Association and Toronto Residential Construction Labour Bureau. Go ahead.

**Mr Richard Lyall:** Thank you for providing us with the opportunity to make a very brief presentation. The Toronto Residential Construction Labour Bureau and the Metropolitan Toronto Apartment Builders Association represent exclusively unionized home builders operating within central Ontario, with the majority of our members concentrated in the GTA. Over 75% of the homes constructed in the GTA and surrounding regions are built by our member companies. We represent our members in a wide variety of areas from collective bargaining and grievance arbitration to health and safety and labour law reform.

I would first like to take this opportunity to thank the government on taking the initiative to correct what has been a long-standing problem in the residential construction sector. As was evidenced in the summer of 1998, the system of collective bargaining in our sector was structurally inadequate, directly contributing to a series of overlapping strikes which effectively shut down our industry for an entire summer building season. It was evident to all the parties that our system required a much-needed repair.

By facilitating a discussion among the parties involved in the residential construction industry, this government has created a framework which remedies the historical problems of the past with innovative solutions for the future. While Bill 69 does go a long way to improving our system of collective bargaining, some minor adjustments with respect to the residential portion of the bill are required in order to ensure that the interests of new home buyers are fully protected.

Scope: A significant number of collective agreements cover the county of Simcoe and board area 9 currently. If the act were to exclude these regions, a significant number of new home buyers in those areas could be affected next year by disruptions. It would appear this would defy both the spirit and intent of the amendments. As a result, to ensure a legislative fit with existing collective agreements, and equal treatment under the Labour Relations Act, it would be more appropriate to amend section 150 to include the county of Simcoe and Durham region. Furthermore, all the parties involved in the discussions agree that these areas be included.

Interest arbitration: Currently, the proposed amendments to the act restrict the duration of a strike or lockout to 46 days, with all strikes or lockouts ceasing by June 15. Although the parties are required to send the matters



in dispute to arbitration after June 15, nothing should prevent the parties from agreeing to forgo their respective right to strike or lockout and send any agreed-upon issues to arbitration before the strike period begins. As a result, we assert that section 150.2 should be amended by adding the following provision: The parties may jointly refer the matters in dispute to arbitration in accordance with this section at any time after notice to bargain has been issued in accordance with the collective agreement.

**Arbitrator's powers:** With a limit on the right to strike or lock out, it is imperative that the final dispute resolution procedure, whether it be final offer selection or mediation arbitration, be not only fair and effective but binding and above reproach. In order to achieve this, it is imperative that the arbitrator be equipped with the necessary remedial and authoritative power to force the parties to disclose any or all required documentation and information needed in order to fashion an award. To this end, we suggest that section 150 be amended to include the following provision: The provisions of subsections of section 48 apply with necessary modifications to the proceedings before the arbitrator and his or her decision under this section.

**Regulations:** During the discussions on collective bargaining reform in the residential construction industry, an almost unanimous consensus existed among the parties that the negotiation process begin earlier. With a defined period for strike or lockout activity, it is instrumental that notice to bargain and an exchange of proposals occur earlier than is currently required under the act. As a result, section 150 should be amended by adding the following regulation-making power: Prescribing time limits for the commencement of collective bargaining, including the exchange of bargaining proposals.

It was also generally felt that more communication and dialogue between industry stakeholders prior to and during negotiations would have both a positive and meaningful impact on the collective bargaining process. In light of these concerns, the Ministry of Labour agreed to host a type of industry forum every four to six months between negotiation cycles, and every three to four months in the year prior to bargaining. These forums would not only add value to the bargaining process but would also enhance the parties' knowledge on issues being faced within the industry. We believe the proposed legislation should also reflect these concerns.

**Conclusion:** Once again, I would like to take this opportunity to thank the committee and the government for its time and commitment to improving and modernizing collective bargaining in the residential construction industry. The proposed amendments, in addition to the suggested modifications, only serve to reinforce and enhance the effectiveness of the legislation and the vitality of the residential construction sector.

**The Chair:** Thank you, Mr Lyall. We have about four minutes for questions.

1630

**Mr Carl DeFaria (Mississauga East):** Mr Lyall, I am quite concerned, particularly with the construction

workers' salaries. It's a field I'm familiar with. I did that work. I have lots of family, friends and other people in that field. I noticed that a lot of submissions made by union representatives talked about and requested amendments to section 163.2 regarding wages: instead of indicating wages, to indicate wage packages. I am concerned about that, because that seems to be a way to shift the money from the wages workers would be paid to other benefits or to other costs of the union.

The other item I am concerned about is the amendment that some propose to section 163.5 to prevent employers—it's the ability to hire up to 40% of the total number of employees, because I'm also familiar with some people who have told me in the past that they have been waiting for a job for two years, that they go to the union office and their names will never be called.

What I want to know from you is, do you see anything in this bill that would have a negative impact on the construction workers' salary? I wouldn't want to see that happen. I wouldn't want to see this bill affecting the salary of the construction workers negatively.

**Mr Lyall:** Two things: First of all, with respect to wages and the negotiation of wages, we have typically negotiated total packages. The unions are the legal representatives of the employees governed by the collective agreement and it's the members of the union and their processes that determine how they want things handled. We don't interfere with that.

For example, we'll negotiate an amount of money and the union that represents the employees—don't forget, the employees ratify any agreements—will determine where that money is going to go. We don't get involved in that. The only time we would even think of getting involved in something like that would be if we thought there was something that might be a mistake. I have rarely ever seen something like that.

In terms of the 40%, we don't have to deal with that issue in the residential sector. That's an ICI issue.

**Mr Bartolucci:** Thank you, Mr Lyall, for your presentation. My background leads me not to agree with what you're saying with regard to limiting the right to strike. I say that in all honesty because of my background.

I've done a little bit of studying about labour negotiations at university etc. I lived a bit in the industry when I was a labourer. The studies indicate to me, and I think example leads me to believe, that restrictions on the right to strike undermine serious collective bargaining. If an employer can plan for 45 days, he can wait the period out. If we have a series of 45 days, to me that undermines a growing economy, which you would want and the unions would want. What are your comments on that, and would the answer maybe be a longer—

**Mr Lyall:** I appreciate what you're saying there and I think I understand. Certainly, when we first raised the issue of proposing an arbitration model like this, a lot of people thought we were out of our minds because their view of it is, and some people have looked at the literature which would suggest to them, that the employers, or



in this case the builders, would lose in an arbitration model.

I think you have to consider this in the context of what industry we're talking about. In the residential construction industry, we have hundreds, if not thousands, of contractors and builders. It's a fiercely competitive market. There are a lot of players in bargaining. It's not a typical, classic industrial type of bargaining relationship. There are a lot of players on both sides. The system is only as strong as its weakest link.

The reason we proposed what we proposed—it was most evident in 1998, which was the best example of that—was where one particular section, one part of the industry, one particular area of bargaining would break down, and then it would bring the whole industry to a halt. It's happened and it results in thousands of layoffs, people not working and home buyers not able to move into their houses. For example, I know we had letters and memos in the thousands from home buyers in 1998. They had sold their previous house, and whoa, hang on, they're in a motel all of a sudden because they can't move into their new house.

Then we had situations where there were thousands of construction workers who also were literally out of work and might leave the area and go work somewhere else, and then you lose them. It's the disruption too. You don't have a week's strike and then, boom, things go back to normal again. It takes a long time to reschedule things. Our industry is very sophisticated. There's in excess of 20 subtrades on any given project and it takes a lot to get it back together again.

So within the context of our particular industry—and I'm not looking at Ford or anybody else, 3M or Caterpillar—within our industry, this kind of system, this kind of change makes sense.

**The Chair:** Thank you, Mr Lyall. We have run out of time.

#### TOM JONES CORP

**The Chair:** Mr John Jones of Tom Jones Corp. Go ahead, Mr Jones.

**Mr John Jones:** Madam Chair and members of the standing committee, thank you, first, for this opportunity to speak to you today about Bill 69. I'm only too glad to have travelled 1,000 miles at considerable expense today to be here with you and listen to this committee.

My name is John Jones. I am the co-owner of Tom Jones Corp in Thunder Bay. We are now entering our third generation as a construction company, founded by my father some 50 years ago.

In 1980, our company was successful, or perhaps unsuccessful, in tendering a project in Oshawa. For this one project only, our site superintendent signed the Toronto-Central Ontario Building and Construction Trades Council agreement for the Toronto area, and it was reinforced by the building trades representatives, additional assurances that this was a project agreement only. This project agreement was specifically for the geo-

graphical boundaries of Metro Toronto, known today as boundary area 8. The agreement was to have been only for the duration of this one project.

However, in the early 1980s, shortly after the signing and certainly without our knowledge, the Toronto Building Trades Council, representing the unions, applied to the Ontario Labour Relations Board to have these agreements declared as voluntary recognition of the province-wide agreements of all their affiliates, 24 agreements in total. The labour board, in an unprecedented decision, found that we, the general contractors, were bound not only to the six civil trades but to all 24, including those 18 trades where we had never directly employed workers and, further, made the decision retroactive to the date of signing. That is how this project agreement has followed me to Thunder Bay.

In the past six years, with increasing non-union competition as well as semi-union competitors, we have found ourselves to be totally non-competitive. I'm here today asking for relief outside of board area 8, as promised by the Minister of Labour and the Premier himself.

The relief promised by the minister, Chris Stockwell, outside board area 8 does not relieve any of the eight general contractors from any collective agreement obligations where the contractors have signed collective agreements on the basis of either voluntary recognition or through the formal certification of the Ontario Labour Relations Board, based on the employers having direct-hired members of the local union.

We are the only company in northwestern Ontario, which is our home base, placed in this unfortunate and unfair position. We therefore support Bill 69 if it in fact provides relief outside of boundary area 8 from the restrictions of the Toronto-Central Ontario Building and Construction Trades Council Agreement.

I thank you.

**The Chair:** Thank you, Mr Jones. Mr Christopherson. 1640

**Mr Christopherson:** I think we can all understand your dilemma in terms of how you see it from your position. The difficulty some of us are having is that the solution that's been found here, at the end of the day, is not just going to give you the relief that you need; it's going to mean that there are probably thousands and thousands of workers across the province who are going to receive less wages than they do now. Even the unions that were at the negotiating table have used words like "concessions." They've acknowledged that under the threat of removal of 1(4), it's a concession piece of legislation.

If one attempted to be fair-minded and open-minded and objective and then approached this with an ideological steamroller—is there not some way that you can think of that this can be done without racing to the bottom? In other words, the way the government has decided to eliminate the question of uncompetitiveness is to force wages down. At the end of the day, that should be something that all of us don't want. There should be

some way of bringing the others up. Then you're not faced with the question of being uncompetitive with your competitors, and the workers in the province aren't unilaterally, because of your competitive problems, put in a position of having to lower the standard of living for their families. Your thoughts?

**Mr Jones:** First off, I'm trying not to get anything special as one of the eight general contractors. I'm just trying to get on a level playing field with my unionized competitors, the general contractors, and certainly we're trying to get competitive collectively with the non-union contractors. I'm clearly in a village trying to feed my children, and I'm incapable. In the last four to five years, our volume has dropped considerably. The Manitoba contractors are killing us. They're coming in; they're non-union.

I'm obligated to the six civil trades. I accept that, I respect that, but I shouldn't be obligated to contracts I've never signed with 17 or 18 other unions. If I'm given that relief that I'm entitled to, I feel, then I believe the unionized subcontractors will do a lot better. If I survive, they'll survive in Thunder Bay. If I don't, it'll all go non-union. I'm not so sure that's what you want to do.

**Mr Christopherson:** No, obviously.

**Mr Jones:** Obviously, I think there has to be a non-union and a union component.

**Mr Christopherson:** Why?

**Mr Jones:** One keeps each other honest, quite frankly.

**Mr Christopherson:** How does that work?

**Mr Jones:** Well, it does.

**Mr Beaubien:** Thank you for your presentation, Mr Jones. I agree with you that it's wrong, wrong, wrong to all the union people. That's why we're here today, trying to rectify the problem that there's been no negotiation, nobody wants to change, everybody wants to maintain the status quo on this. That is wrong.

In society today we have divorce courts, we don't have construction courts, and that's the problem. Once you're married to this—I've seen this in my own area, that I think the unions in this case are taking advantage of small contractors by not playing on the same level playing field.

I'm not one that would support abolishing 1(4), but that's exactly where you get. In life today, when there's a wrong, you try to correct it, and sometimes you over-correct.

I totally agree with someone who said that the best way to arrive at a solution is to have the employer and the union at the table solving the problem. But the unions have been totally irresponsible with regard to dealing with this particular issue over the past 20 years.

*Interruption.*

**The Chair:** Excuse me. Ladies and gentlemen, I would appreciate it—

*Interjections.*

**The Chair:** Mr Bartolucci, do you have a question?

**Mr Bartolucci:** Yes, I have a question. I want to precede it with a comment. Mr Jones isn't going to get a fair hearing or a fair question from me because I'm now

forced to respond to the government rhetoric. I apologize, Mr Jones, because I think you've got some concerns that the government should legitimately look at.

But you know what? I've listened here now for the third day and I've continually seen unions come to the table, acting in very good faith, with very good recommendations. I've seen contractors come to the table who are saying, "I want out."

Now, I have a problem. If we're going to start spewing rhetoric, I have a problem with anybody who doesn't sit around this table to listen to what people have to say and question them on what they're saying, not the government rhetoric. There's a time for that, and it's not at this committee level. It is in the House. You should be ashamed of yourself.

*Interruption.*

**The Chair:** Ladies and gentlemen, I realize it's late in the week. This is the third day we've had hearings and the emotional level is cranking up a little, but please, no applause. Maybe that will turn down the level of rhetoric that's going on at the moment.

Mr Jones, that's your time. Thank you.

## BFC INDUSTRIAL

### KVAERNER CONSTRUCTORS

**The Chair:** Members of committee, we've had a request from the next two presenters to make a joint submission. They would still like the full 20 minutes each but they would like to make a combined submission.

**Mr Christopherson:** Obviously, we're all for that.

*Interjections.*

**The Chair:** It varies the format a little bit. I've had the request and I'm putting it to the committee. Is the committee in agreement?

**Mr Gill:** We did that the other day. I think the first day we did that for one of the submissions.

**Mr Christopherson:** No.

**Mr Beaubien:** Durham Construction. There were two representatives from the Durham—

**Mr Christopherson:** Yes, but they didn't take the 20 minutes.

**The Chair:** OK.

**Mr Gill:** Yes, we did that.

**Mr Christopherson:** But I think it's fine. Anything that will allow us to have a little more dialogue—

**The Chair:** We have Mr Ken Steven and Mr Gary Robertson, from BFC Industrial and Kvaerner Constructors. Please proceed, gentlemen.

**Mr Ken Steven:** Madam Chair, members of the standing committee on justice and social policy, I'm glad we had a few fireworks. It reminds me of being in union meetings I used to attend. Since I've come to the other side of the table, I don't have that privilege any more. Sometimes it's difficult when you have these discussions, but a lot of times something good comes out of them.



We come before you today to speak in favour of Bill 69. Our companies are multi-trade industrial contractors who do work across Ontario. Our above-average safety records are in part due to the fact that we are fully unionized companies. By making unionized companies more competitive, more Ontarians will arrive home safely every night after working at one of our job sites.

Why was Bill 69 necessary? There is general acknowledgement on both sides of the bargaining table that unionized companies were not competitive in some markets because of province-wide bargaining. Bill 69, in conjunction with the legislation introduced allowing project agreements, gives the industry the tools it needs to be competitive and allows Ontario to stay competitive with other jurisdictions. The stability that province-wide bargaining brings to the industry is desirable to contractors, customers and unions by bringing real benefits to real people.

A document to read on the history of construction in Ontario is the Franks commission report from the late 1970s, which gives a really good background. If you have the opportunity to read that report, it would help you understand some of the issues that are on the table.

What was the role of the provincial building trades in formulating Bill 69? From the beginning of this government's first mandate, the Provincial Building and Construction Trades Council of Ontario has maintained a professional and productive relationship with this government. We commend the provincial building trades for the approach they have taken and in particular encourage Pat Dillon to continue the significant contribution he has made to improving labour relations in Ontario.

The process proposed by section 163.2 has been in use in some trade locals for about six years now. For some contractors it has meant the difference between keeping the business going and closing the doors. If this process had been in place so that somebody from Tom Jones could have taken advantage of it, they might be having a better go of it today. Some locals chose a path that was different, and now that path is about to be taken by Ontario. The fact that soon every unionized contractor will be able to use this process is encouraging to both established union contractors and those entrepreneurs who want to be a union contractor but perhaps were hesitant because of some of the barriers they saw to being successful.

1650

As multi-trade industrial contractors across the province, it is important that we have a set standard when it comes to name-hiring and mobility. Right now those things are all over the map and it's a job just keeping track of how many people you can take to a local, how many you can name-hire and what not.

Paragraphs 1 and 2 of proposed subsection 163.5(1) set a minimum percentage of employees who may be name-hired and/or brought in from another local. Subsection (4), which allows the parties to decrease these percentages, opens the door for this to be introduced into

collective bargaining instead of being a minimum standard across the province. If there is a reason that the percentage should be changed, it should be dealt with under paragraphs 1 and 2 of subsection 163.2(4).

Our recommendation is that we propose deleting subsection (4) of section 163.2 and changing subsection (5) to (4), (6) to (5) and (7) to (6).

Thank you for your time. We would now be happy to entertain any questions you may have on our presentation or offer our opinion on any other issues that have been put before you during other presentations.

**The Chair:** That's the completion of your submission?

**Mr Steven:** Of the first five minutes. The clerk described that we would have five minutes, and then five minutes of questions, then five minutes—we have a fairly significant presentation to make on section 163.5, which is the ministerial review process.

**The Chair:** I think I would prefer for you to combine that, if you don't mind, gentlemen, and we'll go to questions afterwards. Otherwise it's very difficult to control the time.

**Mr Gary Robertson:** Section 8 of Bill 69 proposes, among other things, the addition of section 163.6 to the Labour Relations Act. The suggested section 163.6 requires the minister to conduct a review of the effectiveness of the provisions of this legislation by December 31, 2001.

The minister's review is intended to measure how or if Bill 69 will have improved competitiveness in our industry. We strongly support such a provision, but we also believe that remaining competitive and keeping pace with rapid global economic change requires a broader review process to develop a "vision of the preferred future."

Leaders representing the stakeholders and constituents of our industry must reach consensus on the issues that affect the future competitiveness of the ICI construction sector in Ontario. Once barriers have been identified, mechanisms can be developed to effect change. The process of bringing industry leaders together must remain outside discussions about reform of labour legislation in order to realize its full potential.

We would like to point out to the committee that legislation has already been put in place by the Ministry of Labour that could, and should, assist with the proposed review. The Ontario Construction Secretariat was specifically created and given the resources to perform functions that fit perfectly with the objectives of the minister. The objectives of the secretariat are to assist the industrial, commercial and institutional sector of the construction industry, including collecting, analyzing and disseminating information concerning collective bargaining and economic conditions in the ICI sector in the construction industry, as well as holding conferences involving representatives of the employer bargaining agencies and the employee bargaining agencies.

The recommendation being put forward is that prior to the formal review by the Minister of Labour, we believe

that the non-residential ICI and heavy sectors should have an opportunity to conduct our own review of the industry. Such a process would bring the industry stakeholders, labour and management, together to identify future strategies and make recommendations on improving the competitiveness of the ICI sector.

We respectfully recommend that section 8 of the bill be amended to facilitate a joint review by the industry and the minister. We propose the following under the review of provisions:

"163.6. The Ontario Construction Secretariat shall conduct a formal review of the industry to measure the effectiveness of provisions of the Labour Relations Act as enacted by the Labour Relations Amendment Act and to identify strategies and make recommendations to enhance the competitiveness of the ICI sector. The findings of this review shall be reported to the Minister of Labour no later than September 30, 2001."

Section 163.7 is actually the previous 163.6, which is the minister's review process that is to take place no later than December 31, 2001, the idea being that the industry itself has an opportunity to come together and discuss the issues to further the cause in terms of dealing with competitiveness outside the scope of legislative reform, so that there are in fact some documents, some review that takes place that the minister can take a look at, part and parcel with the review process he is to conduct.

We believe there would be widespread support for our suggestion, specifically from the Ontario Construction Secretariat.

We thank you for your time and interest, and we welcome any comments or questions if there are any at this time.

**The Chair:** Thank you, Mr Robertson. Do I take it that you have completed your submission?

**Mr Robertson:** Yes.

**The Chair:** Then we'll go to questions. I'm going to allow about three minutes for each party. We'll start with Mr Christopherson.

**Mr Christopherson:** Gentlemen, thank you for your presentation. The more this goes on, the more I think an argument is being made that there ought to be a major effort on the part of the government to make it easier for the unions to organize, because not only does it remove the uncompetitiveness question some employers are bringing to the table, but now you're pointing out, as the unions often do, that unionized construction companies have incredibly higher health and safety records—I think it's about 250% better—than non-unionized. If ever there were good reasons why we ought to be organizing the rest of the industry, I think you folks are making the case.

I'd like to return to your first submission, which was around 163.5. That speaks partly to the issue I've been raising with the minister and the parliamentary assistant about just what levels there are and whether they can change. But I may be mixing up a different issue in the same clause, and you can help me if that's the case. Could you give me again, in very brief terms, the changes you want to make to 163.5? You're suggesting

that if it can be moved, it could be changed in negotiations and that's a concern for you.

**Mr Steven:** Yes. It's just one last thing. There's consensus—like the 40% name-hire. If we get a job, which we just did in Thunder Bay-Atikokan, which might take about 30 people for five months, even if we could do 100% name-hire and 100% mobility, we're not going to take 30 guys to Thunder Bay to do the work. We might take one or two per trade, and we would want to have confidence in the hall there to hire good workers when we get up there. So the 40% name-hire and the 60% mobility is probably above what you would actually in reality—

**Mr Christopherson:** Sorry. Doesn't this say "may employ up to"? So you're not bound by this legislation to hire the 40%. You could hire 2% if you chose.

**Mr Steven:** That's right. But further in subsection 163.5(4), it allows the parties to decrease those percentages. When bargaining came, that would become a bargaining chip, and over time, for whatever reason, some locals would increase the percentages and some would decrease it. Then we would be faced with the same challenge we have now, where we have somebody who has to keep track of all these different percentages across the province.

**Mr Christopherson:** You're making the case as to the issue I raised with the minister and the parliamentary assistant. When I said to the minister that under subsection 163.2(4) and the five parts of it the arbitrator would have the authority to change both the 40% and the 60% ratios, the minister pointed to 163.5 and said: "No, that's the floor. There has to be 40%, and then there has to be 60%. That's guaranteed." I can assure you the reason they're delaying giving me back the legal opinion is that they have looked at it and found out I'm right and that the arbitrators can change that.

I appreciate your concern, but I think the unions need to be really worried about the fact that "significant" is no longer in the issue of competitive disadvantage. All you have to do now is make a case that there is a competitive disadvantage to you, and an arbitrator can change all those ratios. You can end up with nobody being hired locally, and somebody could name-hire everyone if they wanted to. The unions had better be aware of this, because I'm not sure that was the understanding they had coming from the bargaining table. It's a little different than your concern, but it's on that same highway of legal wrangling that I think we can end up on.

1700

**Mr Steven:** I'm not familiar with all the fine points of the legal argument.

**Mr Christopherson:** I'm not a lawyer. I'm just doing the best I can.

**Mr Steven:** I'm just an electrician. But in some cases, that's what you need to make somebody competitive. If you take a specialized contract to do, maybe, certain high-voltage work that might be what's necessary to get that done.



**Mr Christopherson:** I'm not arguing you wouldn't make that case. I'm arguing that it means the unions don't have a guarantee that that's the ceiling. That could very well be the beginning of it, and we could see 100% name-hire wherever an employer wanted, and that's not what the unions negotiated.

**The Chair:** Mr Christopherson, you have reached the ceiling. I will go to the government side.

**Mr Gill:** Mr Steven, if I read it correctly, I think the proposal the minister has put forward is a win-win situation. Do you agree?

**Mr Steven:** Pardon me?

**Mr Gill:** This is a win-win situation. This seems to be a step in the right direction.

**Mr Steven:** In my submission, I mention some locals that have used something similar to this. It just happened to be the local I came from, and I was on the board of directors when we started it.

We decided it was better to have somebody out working at \$20 an hour than sitting at home at \$36. That's the goal, to get people to work. I know there are a lot of other arguments going on about other things, but that is the goal and this bill has the gist of what was happening there. It started about six years ago.

In that case, it was just one trade. So perhaps for contractors that had just been organized, a lot of their customer base was at a lower rate than the union rates. Then the business manager could make those adjustments and gradually bring that contractor up, instead of taking him to the full rate right away and having him go bankrupt.

Other trades in our area didn't adopt that and so, as I said, you had a case of a multi-trade contractor who would be able to be competitive electrically but not in pipefitting or millwrighting or sheet metal. What this does is even out the playing field for those multi-trade contractors that can make a concerted effort to go after work now.

I believe the bill has the gist of the direction we should be going. We should take the time to hammer out all the details and get it right. In particular, the review process should be an ongoing process, something like the Construction Industry Review Panel, which I believe was started in the 1960s and continued in the 1970s and 1980s, but for some reason when the friends of labour came in in the early 1990s, it wasn't continued. So something like the Construction Industry Review Panel should be resurrected, and that would tie in with Gary's presentation.

**Mr Robertson:** I think it's important that we recognize that there are contractors out there who are union by choice, that it's a business relationship. What this bill does is build on that relationship. Rather than a collective agreement, it's looked at more as a commercial contract. If those business partners are having difficulty in being competitive, they should have an ability to amend the contract they have between them so they can continue in business together. What this does, coupled with project agreements and some of the other areas, is give that flexi-

bility to be able to address some of the competitive issues we face.

**Mr Gill:** In your opinion, the 40-60, the labour mobility, seems to be working? Do you think that might work OK with some flexibility?

**Mr Robertson:** In some areas we have a greater than 60% name-hire already. I think the key component here is the transfer and the ability to bring into other areas specialized people that perhaps one particular local doesn't have or who are working for someone else. We as contractors share; we go to the same pool for people. Those people may be working for somebody else when we go into an area, and we should have the ability to bring in some people who have the requisite skills.

**Mr Bartolucci:** Mr Steven and Mr Robertson, I want to thank you very much for an excellent presentation, one that, I might say, after our little dustup here before you came, acknowledges that the partners of the industry have to work together. I'm very impressed that the big contractors would recognize the efforts that the construction trade unions have put into it trying to come up with a workable agreement. So I thank you for that.

I'm from Sudbury. I worked for BFC when it was the Foundation Company of Canada—good employers, treated their men well. I must tell you that Sudbury isn't exactly the bastion of economic boom in the construction industry, as you know, so I think I have a little bit of trouble with the mobility and the naming issue. Is there anywhere in your scope of thought where certain depressed areas in a particular market such as construction could be excluded from this?

**Mr Steven:** I agree with you that there will be in some cases some hardships put on some remote areas where a number of employees will be brought in by a contractor to do the work, but I think on the other hand in a lot of cases that contractor from Toronto or Kitchener or wherever wouldn't be going after that work if they couldn't. So the work might go non-union anyway.

Earlier, John Pender from the IBEW mentioned the older workers and whatnot being discriminated against. If you look around union job sites, you see a number of workers with grey hair, or some with no hair, like me. But when you look around non-union sites, they tend to have more younger workers and that's one of the differences. When you get into a union company and join a local, you're there and dispatched on a generally even basis with everybody else. That's one of the advantages to the province keeping a healthy unionized sector. They do treat older workers who might get discriminated against better and they're more likely to be alive when they get to retirement age.

I don't see a way that we can apply regional development to this. I think we would have to look at it in that it's a way for those members in that local area—if they can get 50% of it instead of zero, that's better than nothing. The tradesperson's goal, to my mind, isn't to see how much time they can spend away from home. For some tradespeople, yes, the farther away from home the job is the better. That's one of the reasons I tried to get an office estimating job, because I was making really good

money. But I could see I was going down the same road as a lot of the people I had worked with: divorced, separated; their kids were teenagers and they didn't know them. Yes, we have the ability through this to take 60%, but the goal of every contractor on every job won't be to take that 60%, and the goal of most tradespeople isn't to spend time away from home.

**The Chair:** Thank you, gentlemen.

Ladies and gentlemen, something unusual happened in the House today so there is a chance that we will all have to go and vote at just before 6. We still have seven more delegations, so I'm going to ask committee members to keep that in mind as you ask your questions, because we may have to limit some time here in order to accommodate everyone.

**Mr Christopherson:** There is a way to do this. If we just keep on going, we'll be just fine, I think, Chair. Correct?

**The Chair:** Yes. But if there's a vote, that may cause some challenges for the members, that's all I'm thinking.

1710

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 353

**The Chair:** Mr Fashion of the International Brotherhood of Electrical Workers, Local 353. Again, hi, Mr Fashion. Go ahead, please.

**Mr Joe Fashion:** I have to apologize for the brief, because I've been here for the three evenings listening to the discussion. I was going to try and keep it to two or three points, but I found that I just couldn't get there.

I must make the comment that 10 minutes really is terrible. I've been part of these negotiations for seven months, including the residential sector, which led into the ICI sector, and to spend all that time and only have 10 minutes, which is now almost nine minutes—but I'll try. I'm going to skip through this, so you'll probably have trouble following it, but I did manage to say everything I wanted to say in the brief.

Our union represents approximately 6,000 workers in Ontario, the vast majority in the ICI and residential sectors of the industry. Our members live throughout the province in both large urban centres such as Toronto and smaller centres such as Barrie, Oshawa, Hamilton, St Catharines, Guelph, Milton and Kitchener, to name a few.

Labour Minister Bette Stevenson and the Conservative government of Premier Bill Davis introduced province-wide bargaining in 1977. The government put this legislation in place at the request of the contractors and their associations, who wanted to stabilize construction bargaining in the province of Ontario. The IBEW and many other building trades unions opposed this legislation at that time. To a certain extent the legislation was effective, but it did hold back wages, especially in Toronto. This act is going to undermine provincial bargaining.

The original scheme was to cure the fragmented collective bargaining structures which brought instability

to labour relations in the industry. Bill 69 will re-introduce such fragmentation and undermine the purpose of province-wide bargaining. Local 353 supports the bill in principle, but does not support the general contractors being allowed out of their contractual obligations outside of board area 8. Currently, the electrical contractors in Ontario do \$100 million of work for these eight generals outside of board area 8, and that's in a year. These electrical contractors are businesses that span all sizes of companies, small, medium and large, some of which are family businesses and also employ members of our union. The IBEW and the contractors' association have a system that encourages co-operation between the parties, although I don't know why they ever got part of that group that they got mixed up with.

We propose that in Bill 69 accommodation and travel should not be part of what the arbitrator can eliminate. And apprenticeship ratios should not be touched; they should be left in place.

At the bottom, number 3, arbitrators: We propose that a list of arbitrators be created consisting of those who are on the Ministry of Labour's approved list of arbitrators and have a history of arbitrating cases in the construction industry. Experience is certainly needed to be an arbitrator in the construction industry because it is different from any other industry in the province.

Hiring hall: Bill 69 destroys the hiring hall provisions by imposing default hiring provisions to allow employers to select 76% of the required workforce. This percentage is far too high and was never considered during the industry discussions by the unions; 50% would be a fairer number. Many unions have 50% now and have found this number to be workable. These provisions ensure that employment is not based on favouritism, but rather that everyone on the list will have an equal opportunity to be employed based on availability of work and their place on the list. At the same time, the hiring hall provisions protect employers by requiring unions to provide only qualified workers.

Bill 69 removes that protection. It provides the employer with a licence to pick and choose the same specific individuals for subsequent projects, and results in an unfair advantage to some workers over others. It will affect injured workers, older workers, women and visible minorities, and it will affect workers in smaller communities. The result will be an underclass of workers who will seldom be selected for work and will end up leaving the industry.

The designated regional employers' organizations: This just is a mystery to me and to the people I talk to, how there can be more than one employer organization that we have to deal with. We certainly recommend that that employer organization be appointed by the local bargaining committee from the contractor's side because they're the people who know how to deal with the unions.

Section 163.6, the sunset and review: We don't see any reason for the minister to have that in the act. He doesn't require statutory direction to do a review.



All through the negotiations, and they were negotiations, mobility, name-hire and market recovery are something the contractors' association has tried to get out of us for—well, I've been business manager going on 13 years now and they've been trying to get those things all these years. Now, under this act, they've got it. They think they've died and gone to heaven.

The word "significant" needs to be in there when it talks about arbitration and differences in costs. Accommodation and travel have to remain in there, and again, apprenticeship ratios.

There are other things the act doesn't talk about: the bidding system in the province of Ontario. It's so terrible that there are people who take advantage. I know why a lot of those general contractors went out of business. They all got screwed by larger general contractors.

Earlier and last night it was said how wonderful it is in Alberta. You know what? I think there are three large general contractors in Alberta now. They've driven everybody else out of business and they are the ones now that are in power. I guess it's only a matter of time before there will only be two big general contractors in Alberta and I hope they stay in Alberta.

**The Chair:** Thank you very much, Mr Fashion. I don't think we have any time for questions, gentlemen, sorry.

**Mr Fashion:** Boy, and I cut it short.

**The Chair:** You took your 10 minutes. Thanks.

1720

#### VANBOTS CONSTRUCTION CORP

**The Chair:** Mr Matt Ainley, Vanbots Construction Corp.

**Mr Matt Ainley:** Thank you for the opportunity to discuss Bill 69. For the record, Vanbots Construction supports the thrust of Bill 69. We think it's a good first step; however, we do have some concerns and I'd like to address them today.

By way of background, back in 1964, on April 3, Vanbots signed what's called a "working agreement" with the Building Construction Trades Council of Toronto and Vicinity. At that time, this agreement bound us to six civil trades, which we were quite happy with and still are to this day. We had to use subcontractors also of that type of mix of companies.

In the early 1980s, though, an unprecedented decision by the labour board found that the general contractors were not only bound by the six civil trades at that time, but to all 24 trades. These additional 18 trades were never directly employed by Vanbots. We did not voluntarily sign up for them; it was something done retroactively.

Subsection 1(4) of the Ontario Labour Relations Act bound the employers forever in doing business with the building trades council and we believe this puts a situation of unfairness into our right to bargain fairly.

As of 1983, 288 contractors had a working agreement, the same working agreement Vanbots had. This year only eight exist—you've heard this before—and no doubt that

will drop in the next few years if this is not properly addressed.

The difference for Vanbots is that we do not want out of our union agreements with the six civil trades. We voluntarily signed up for them; they work for us. What we want to do is create a level playing field, and I will address that in a few moments.

Over the last 20 years market conditions have shifted such that there are more non-union and semi-union contractors now operating in this province. This is a large growth that has taken away business from the eight contractors now remaining today. In fact, we are in a position where we cannot be competitive. That is not a good situation for our firm or the other eight firms. All we seek is to have the same equal opportunities these other firms have, to be competitive in the marketplace and to make the decisions they can make; we would like to have those decisions in front of us as well.

As an example of how this affects Vanbots, I have included in this document which is before you now an appendix A, an invited bid list for one of Vanbots' repeat clients that we've had a relationship with for seven years. This client has chosen, on its next project, to pre-qualify mechanical-electrical bidders. There are both union and non-union mechanical-electrical bidders on that list. Unfortunately, all the union mechanical-electrical bidders have withdrawn from the bid list, and now we are faced with being in the position that we cannot bid because we cannot use non-union mechanical-electrical bidders. So we have been forced to call our client with which we have a relationship and tell them we can no longer have a relationship with them.

Vanbots, quite simply, is losing its market share to non-union and semi-union general contractors who have the ability to use non-union contractors. This is a situation that is now restricting our ability to secure work. There are other examples attached in the appendix that you can review, but very simply, because time is of the essence here today, from January to April this year our company has bid on five projects totalling \$22.7 million worth of work. If we had the ability to use non-union on our mechanical-electrical, we'd have been the low bid. So we are losing market share each and every year.

Another situation that puts Vanbots and the other contractors with our agreement at a disadvantage is contractors who can come in from other provinces or from the United States and set up shop. Companies such as Ledcor, Dominion, Turner and Axor all have the ability to use non-union trade contractors, which we cannot. They are therefore much more competitive than us and are beginning to take work away from our company.

There are also semi-union contractors out there, and some notable companies such as Bird, PCL, BFC, Buttcon and the like have only part agreements, not all 24; some of them own as little as two, some as many of seven or eight. They too have advantages over Vanbots and the other companies with our agreement.

What we request is a level playing field for all contractors, whether they be union, semi-union or non-



union. We believe Bill 69 does not go far enough to do that. The current proposed amendment to the Labour Relations Act does not remove the unfair working agreements that are affecting our company. The draft position paper of the Minister of Labour, Mr Stockwell, dated February 3, made reference that contractors affected by the working agreement would be voluntarily released outside board area 8. He has not done that in Bill 69. In fact the Premier and the government promised to do that and they have not done that. All we ask they do is make good on their promise.

It is important to note that a level playing field and legislative relief is required for the eight contractors, and it must be legislated because the unions have said they will not voluntarily give us the relief we seek. Vanbots Construction, so you understand the difference between inside and outside board area 8, does \$500 million worth of work annually. Some 12% of our volume is outside board area 8, so getting relief outside board area 8 is simply not enough. We need more.

As I have said, Bill 69 currently assumes that the unions will be giving us voluntary relief. They have openly stated they will not do it. We do require legislative change as part of Bill 69. We respectfully request that this committee consider this and make the necessary amendments to Bill 69 that will relieve our position.

There are eight contractors, as you know, that have our agreement. There are other contractors that are in a position somewhat similar to Vanbots and the eight, but not totally. The difference, though, between the eight and those others is that we did not voluntarily sign those agreements; those contractors did. All we want is a level playing field.

We are very happy with our union agreements with the six civil trades. It has worked very well for us, and we want to continue with that. We have excellent relationships with our unions that we do business with. What we're asking for is a level playing field. Two hundred and eighty-eight contractors in the last 20 years, now down to eight. I think that is very much a significant disadvantage, and that's what has been talked about today by these gentlemen, and I understand that. But there is a distinct disadvantage for us, and we ask that the committee seriously consider our request. Thank you.

**The Chair:** There are about two minutes left. Mr Gill?

**Mr Gill:** Thank you, Mr Ainley. I appreciate your input. Our government has been known to make promises and keep promises. As I understand, this was a very open discussion among various parties and there was no promise made outside of board area 8 in that sense. Can you enlighten me that one was made?

**Mr Ainley:** The Premier and Mr Stockwell have on several occasions stated that they will provide relief for the eight contractors. This was in the February 3 position paper. Mr Stockwell then did a tour of the province and stated that position at three different stops that he made along the way. So it's public knowledge that the promise has been made. All we're asking is that it be delivered. Bill 69 does not do that for us. Therefore what we're

asking for is that it be handled through legislation change, and that would require an amendment to the current bill the way it's written.

**Mr Gill:** As I understand it, it was an open discussion, a fair discussion, every party was involved, and I don't believe that promise per se was made.

**Mr Ainley:** Well, I would differ, sir.

**The Chair:** Perhaps 30 seconds, Mr Bryant. No question?

**Mr Michael Bryant (St Paul's):** No question. Thank you very much for your presentation, but I want to make sure that we get everybody on, so I'll pass on the question.

**The Chair:** Thank you, Mr Ainley.

## INDEPENDENT CONTRACTORS ASSOCIATION

**The Chair:** The next presenters are Mr Arthur Potts and Mr David McDonald, representing the Independent Contractors Association. Good afternoon, gentlemen. I'm sorry that we're sort of—

**Mr Arthur Potts:** That's all right. Thank you, Madam Chair, Mr Minister, members of the committee. Mr Minister, good to see you had time to drop in for our presentation. I want you to understand it was strictly coincidental since we were supposed to go about half an hour ago, but good to have you here, in any event.

**The Chair:** Yes, we are running a little late. That's why I'm trying to compress things.

**Mr Potts:** It worked to my advantage. I couldn't be more delighted.

We're here in support of Bill 69. We see its intent as expanding on the competition in the construction industry generally by addressing bargaining power issues and inequities that have arisen over the past 20 years in the unionized sector. At the same time, the bill respects the rights of employees who have decided to join a construction trade union, and it does not permit wholesale double-breasting, which may very well have undermined their freely taken decisions.

However, while the bill addresses competitive issues on behalf of the unionized construction sector, it does nothing to open up competition and tendering practices for the non-construction employers, who are unjustifiably subject to province-wide construction relationships over which they have no input or control. Fairness dictates that if the unionized sector is going to have better access to construction work, then the bill should also address barriers in the Labour Relations Act that continue to bind non-construction employers to construction agreements.

1730

Our association represents about 100 general shop contractors and subtrade contractors who first came together in response to the amalgamation of the city of Toronto and the Toronto District School Board. As a result of that process, construction work is now tendered in those jurisdictions only to contractors who have applicable trade union contracts. We think that's



grotesquely unfair. In effect, hundreds of qualified contractors and thousands of their employees, some of whom have worked for those jurisdictions for decades, were kicked off the job sites and their businesses were destroyed.

Two years ago, the government of Ontario passed the Economic Development and Workplace Democracy Act, which partly addressed our concerns. Bill 31 created a class of non-construction employers and prohibited construction trades from certifying these employers under the construction sections of the act. It further provided a mechanism for non-construction employers such as the city of Toronto to get out of construction bargaining relationships that should never have been applied to them in the first place.

Unfortunately, the bill has not worked. In the two years since coming into force, no non-construction employers have been able to escape their bargaining relationships with the trades. While this is due in part to very creative interpretations by the Labour Relations Board, it has more to do with ambiguous language that we believe can easily be rectified. In particular, we would like to see an amendment that would clarify the definition of employer for the purposes of construction sections of the act.

Currently, the act broadly defines the employer as a person who operates a business in the construction industry, but then narrows the definition by excluding non-construction employers. The effect is that a non-construction employer, like the city of Toronto, is automatically presumed to be covered by the act unless they can take the necessary steps to be excluded.

The definition of employer for our purposes and the purposes of the construction sections of the act would work better if it specifically defined an employer for the purposes of the act as a person who operates a business in the construction industry selling construction services. A non-construction employer therefore would be defined as a person who is not engaged in a business in the construction industry selling construction services. The key here is that the definition specifically looks to the selling of construction services in order to catch the employers.

We would also like to see an amendment that would remove the requirement under subsection 127.2(2) that a non-construction employer have no employees in the bargaining unit as of the date of application. This requirement perpetuates an extremely undemocratic and unfair practice that Bill 31 has attempted to remedy.

At the city of Toronto, for instance, there are eight collective construction agreements in question. In these eight bargaining units, under the ICI sector, the city currently employs about 130 construction workers, including only one glazier, one bricklayer, two sheet-metal workers and no insulator mechanics, all of whom have collective agreement relationships. There are 14 painters and others in electrical carpentry. These few employees make it impossible for the city to open up tendering to thousands of qualified tradespersons because

they cannot make an application to get out of these bargaining relationships.

The clause should be amended by deleting all the words after "employed in the construction industry" in that subsection. The OLRB has the power to amend bargaining unit definitions, so these persons would continue to have representation at the city but they would be in an industrial bargaining unit, where they are more appropriately placed. It is patently unfair that one bricklayer should dictate that hundreds of qualified bricklayers are ineligible to work on city-funded projects.

In summary, we believe the thrust of the bill is consistent, and it's appropriate that it helps open up competition while respecting the right of employees to self-determine whether or not they wish to be represented by a construction union. While making changes to benefit the union sector, we would ask that you also make the necessary changes to open up tendering for non-construction employers.

You should simply ask yourselves: Is it appropriate that the city of Toronto, a non-construction employer, should have more construction agreements than any other construction company in the province? If you answer that as not appropriate, you will need to make these few changes to help restore fairness. We've attached some draft suggestions of the language and would be pleased to answer any of your questions.

**Mr Bartolucci:** I'd like to thank you very much for your presentation. I'm sorry I didn't hear the entire presentation. I apologize for that. I'd like to just ask for your opinion with regard to the final offer selection process that's in play. I'm going to ask you because I think you're on the side that there's sort of some favouritism attached to it, whether knowingly or unknowingly. Do you think that there should be both the DREOs and the EBAs making final offers for one side? Do you not think it's like a good guy, bad buy approach to final offer selection?

**Mr David McDonald:** We're the innocents in this discussion. We don't have to deal with these.

**Mr Bartolucci:** No, and that's the reason I'm asking.

**Mr Potts:** Quite frankly, the unionized construction sector, both the construction employer group and the construction trade unions, have their own deals to work out on how this is going to work.

I'm surprised to hear all this give and take and back and forth in these committee hearings. It was my understanding that we sat down and hammered out an agreement between groups and that this was in place. I guess it's all those who have been excluded or somehow weren't included who are coming forward. I'm not sure.

We haven't followed those discussions and have not been part and parcel of them. It really doesn't affect our industry. We represent companies who believe that people should have an opportunity to bid on jobs regardless of whether or not they are unionized.

**Mr Bartolucci:** Maybe that's why you're the best guy to answer this question, and so I'll go back to it again.



Really, do you think it's fair when you can have a good guy, bad guy final offer process in place?

**Mr Potts:** I'm not qualified to answer.

**Mr McDonald:** I'm not qualified to answer.

The gist of it is that they basically have to figure it out for themselves in the end anyway; there are bargaining relationships. I'm not in favour of double-breasting and getting out of all the union agreements. Some people deserve unions and some people—we do well without them. They try to certify us. I don't think we've engaged in any unfair practices, but we have the right to bid on work. But they are in the situation where they have to bargain in good faith with their employers.

**Mr Potts:** Putting it another way, the fact is that in those sectors where we're concerned, where the unionized construction contractors and unions hold an absolute monopoly on the work, they don't have to worry about outside competition. It's where they're having outside competition from safe and economic contractors in the open shop sector that they're concerned about competition. If they're going to get more access by changing agreements, then that's fine and dandy. We will compete with them dollar for dollar, health and safety issue for health and safety issue on every single job site. But we want the same right to compete in their back yard, where they have restrictive tendering provisions; for instance, in the city of Toronto.

**The Chair:** That's all the time, gentlemen.

**Mr Potts:** Thanks for your time.

#### GREATER TORONTO HOME BUILDERS' ASSOCIATION

**The Chair:** Mr Murphy, Greater Toronto Home Builders' Association.

**Mr Jim Murphy:** Thank you, Madam Chair. I'm actually not going to be making our presentation. Our president, Eric Wegler, will be making it.

**Mr Eric Wegler:** Good afternoon, Madam Chair and committee members. My name is Eric Wegler, and I am president of the Greater Toronto Home Builders' Association. With me is our director of government relations, Jim Murphy.

First, some background on the Greater Toronto Home Builders' Association. We represent the residential construction industry within the GTA and have done so since 1921. Our membership of over 1,000 companies includes the residential home builder and professional renovator, along with other components of the housing industry including subcontractors and professional firms. Last year in the GTA our members sold over 37,000 new homes and contributed over 100,000 person-years of employment to the regional economy.

Tonight, I want to speak to three issues: firstly, why the legislation is required; secondly, the geographic areas covered by the legislation on the residential side; and thirdly, the issue of arbitration.

I am sure many of you remember the strikes that affected our industry in the summer of 1998. Residential

construction in the GTA lost a combined total of 59 weeks of production. At least one trade was on strike at any given time between May 1, 1998, and September 14, 1998, for a total of 135 days. In the last 11 years there have been no fewer than 21 strikes, with a combined length of 90 weeks.

Unlike other industries, the residential construction industry is represented by a number of unions. Varying contract expiry dates create uncertainty and difficulty for both builders and, more importantly, new home purchasers. This situation is commonly referred to as stacking, and is what the industry and consumers believe needs to be changed the most.

Together with other industry associations, we proposed a solution that would provide for a common expiry date for contracts and a common length of contract, with matters then being referred to arbitration. The legislation before you today does just that. The legislation will be a huge improvement in providing both the industry and the new home purchaser with certainty in the process, as it includes a common expiry date for contracts, a common length of contract with matters then being referred to arbitration.

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The legislation before you today does just that. The legislation will be a huge improvement in providing both the industry and the new home purchaser with certainty in the process as it includes a common expiry date for contracts, a common length of contracts of three years and a limited strike and lockout provision of 46 days.

Most union agreements in the Toronto area cover the entire GTA. The legislation, unfortunately, omits Durham region from its coverage area. Similarly, Simcoe county, including the city of Barrie, is also excluded from the legislation. The Greater Toronto Home Builders' Association has been working with both the Durham Region Home Builders' Association and the Greater Barrie Home Builders' Association, who are in agreement that the provisions of the legislation affecting residential construction should also cover Durham and Simcoe. The Greater Toronto Home Builders' Association recommends that the legislation be amended to include Durham region as well as Simcoe county. The amendment will treat the GTA market area the same and provide for common agreements GTA-wide. There would be no second-class homebuyers within the GTA.

The last issue I wish to address today is arbitration. The legislation affecting the residential sector currently states that parties to collective bargaining agreements devise their own arbitration model. Failure to agree on a model would then be addressed by an arbitration model to be designed by the province as per a regulatory power provided for in the legislation.

The Greater Toronto Home Builders' Association would offer two comments and recommendations on this matter. We believe that only monetary items should go to arbitration. This is the model followed by the Electrical Contractors Association and the IBEW, which is the International Brotherhood of Electrical Workers. This



existed over their last three rounds of negotiations, albeit on a voluntary basis. From an industry point of view, our concern is that items be limited so that the process is not open-ended, with hundreds of issues being arbitrated. Such a system would also encourage the parties to seek a resolution to as many matters as possible by themselves prior to arbitration.

Second, the Greater Toronto Home Builders' Association recommends that final offer selection be the model used for arbitration. Again, both the International Brotherhood of Electrical Workers and the Electrical Contractors Association have used this model, which has limited their dispute and brought settlements quickly. Under final offer selection a date is given and, if an agreement is not reached, the position on the table becomes the final position of both parties, with no time to amend it before an arbiter rules. We note that the legislation, as currently drafted, provides for such a mechanism on the ICI side of the industry. We would like to see the same on the residential side.

I want to thank you, Madam Chair, for your time this evening. We believe this is important legislation for the residential construction industry. It will provide annually literally tens of thousands of new home purchasers with increased certainty on the delivery date for the most important purchase of their lives, a new home.

**The Chair:** Thank you, Mr Wegler. We have perhaps three minutes for questions.

**Mr Christopherson:** Thank you for your submission. Just on your last comment, "It will provide annually literally tens of thousands of new home purchasers with increased certainty...." Let's bear in mind, though, that when we say having stability in the marketplace of building homes is good to the extent that people have deadlines etc, construction workers buy homes too. Their relative wage rates reflect and affect everyone else in the whole continuum of the relative amount of money that everyone makes, whether it's nurses, firefighters or construction workers. The idea that we've got yet one more area where there's pressure pushing down wages at the end of the day I don't think is going to help those of you who build houses, because the more you cheapen the value of labour in Ontario, the fewer people are able to purchase a new home. But that's a statement. I leave that for you to comment, if you wish.

My question would be on your comments around the 45 days.

**Mr Wegler:** Forty-six days.

**Mr Christopherson:** Forty-six days. As you know, number one, we've got a disagreement with some of the union leaders who were at the negotiating table with the minister and with the employers as to whether or not that was agreed upon.

But certainly, if you look at the Hansard, quite a few union leaders have come forward and said, "If you ram this through, you effectively deny the right to strike," which is a universal right declared by the United Nations, and they're not going to stand for it. At the end of the day, you're going to end up with more disruption and

more wildcats than you would if you didn't have this in place right off the bat. What are your thoughts on that?

**Mr Wegler:** First of all, the unions are in agreement with the proposed legislation, so I don't really see it as a problem.

**Mr Christopherson:** No, I'm sorry, not all of them.

**Mr Wegler:** They were at the table with us for a year and a half and we worked very hard with them on coming up with what you find in the current proposed legislation, albeit you don't agree, but we were there.

**Mr Christopherson:** Mr Cartwright, who represents the carpenters, has been here and has stated that this was not agreed to and he disagrees with them. They've got a huge problem.

**Mr Wegler:** We may not have agreement with everybody, but certainly the major unions we deal with and that deal in the greater Toronto area are in agreement.

**Mr Murphy:** Madam Chair, just on that point, if I can just—

**The Chair:** We really are running—

**Mr Murphy:** At the table, I think for the first time, everybody who was at the discussions agreed to a defined date in terms of the strike or lockout period, which has never occurred in the private sector before. People may differ in terms of the number of days and the time that takes, but on that issue they agreed.

**Mr DeFaria:** I am glad you are very enthusiastic about the legislation. I just want to ask you a very direct question. Can you tell the committee what safeguards there are in industry to ensure that as a result of our legislation the salaries of construction workers will not be negatively impacted by the legislation? I want you to be specific, because following you is my good friend Tony Dionisio to make a presentation, so he'll be dealing with that question.

**Mr Wegler:** I think the arbitration model itself ensures that the results will be fair. Over the past number of years certain strikes have been settled by arbitration and, to be honest with you, the settlements most usually have been more in favour of the worker than of the employer. I think we've all agreed that if arbitration is the way to go, then it's the way to go, and we're willing to live with the results.

**Mr Bartolucci:** Just to follow up on Mr Christopherson's question, you made a comment that the parties agree to a defined length of time, but that definition never included the number 45. So you would agree then with a window of 75 days.

**Mr Murphy:** I didn't say that.

**Mr Bartolucci:** But you said that everybody around the table—

**Mr Murphy:** Everybody accepted the principle of a defined time.

**Mr Bartolucci:** —agreed to a defined time.

**Mr Murphy:** Everybody accepted the principle of a defined period for a strike or lockout period. There wasn't agreement in terms of what the time was, but they agreed on the principle. So at the end of the day some-



body has to make a decision in terms of what that period is.

**Mr Bartolucci:** But the 45-day wasn't agreed upon by the players. It's important for me to know that.

**Mr Murphy:** I can't speak for the other parties.

**The Chair:** Thank you, Mr Murphy and Mr Wegler, for coming this afternoon.

#### UNIVERSAL WORKERS UNION LOCAL 183

**The Chair:** The next presenters are Mr Mark Lewis and Mr Antonio Dionisio. If you're going to read this whole package in 10 minutes—

**Mr Mark Lewis:** I don't intend to read it.

**Mr Antonio Dionisio:** Madam Chair, Mr Minister and members of the committee, good afternoon, and thank you for the opportunity to speak with regard to Bill 69.

My name is Tony Dionisio. I am the business manager of the Universal Workers Union local 183. We represent a true number of over 24,000 members in the residential sector. It's our industry and that is why we're here today. I will ask my general counsel to speak on the bill, and we'd be more than pleased to answer any questions after this.

**Mr Lewis:** Given that we only had 10 minutes to speak, we've provided you with extensive materials. It's not our intention to go through them, but they outline general views on the process of reform in the residential sector, our views on Bill 69 and suggestions with respect to amendments.

Just picking up on some of the last comments, local 183 has never been in favour of limiting the right to strike. However, when it was put to us that some limit may be imposed on our right to strike, after consultation with our membership and thinking about the situation, our view has been that we should go straight to arbitration. If we're not going to have real strikes, then let's just go to arbitration. Nevertheless, that's not the option that was set out in Bill 69. We are determined to try and make the system work, to work within the system, and we think we can make it work with increased stability and assurance for homebuyers and the entire industry, but there is a need for particular amendments.

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We too are requesting that the geographic area be expanded. We are looking to include all of what is commonly known as board area 8 and Simcoe county and what is known as board area 9, which is the area immediately to the east of the city. Those board areas are the geographic areas for which construction unions acquire bargaining rights. Accordingly, we are looking to define the arbitration processes and the limitations in Bill 69 by way of board areas, because most of the agreements will reflect those standard board areas. Our position on what the geographic area should be is set out precisely in tab 2 of the brief.

The most important amendment we are asking you to consider is the concept of including a designated residential employer organization within Bill 69. We bargain

standard industry collective agreements with employer associations and with independent employers. We have tried to set out as accurately as possible in the table that's found at tab 1 of your brief the agreements that we have and the numbers of employers that are bound to those agreements either by virtue of their membership in an association or because they're independent employers who are bound to a collective agreement which contains exactly the same terms and conditions.

Our industry demands that there be one collective agreement for everybody so that no contractor has an advantage over any other unionized contractor, so that there is a level playing field. The problem we are facing with Bill 69 as it is currently drafted is probably best set out in reference to our bricklaying division. As you can see from the table, we have agreements with 579 brick-laying contractors; 139 of them are members of the association MCAT. We can have one arbitration hearing for those 139 companies. They will be represented by their association. With the independents, we're left with the prospect of having 440 arbitration hearings, one for each of them. That's 441 arbitrations for our bricklaying division alone, and the problems continue all the way down the table. That cannot be what Bill 69 was intended to do.

There has to be a mechanism in this bill for this trial period which makes the employers speak with one voice, so we can go to one arbitration, one view on the other side of the table, one decision which is going to set the industry agreement. Having all of those parties at a hearing is literally impossible. The levels of sophistication among the contractors, never mind finding a room big enough, and the language difficulties we face will make that very difficult. What we are suggesting is that the minister choose an employer association and say: "For this round, for this trial process, you represent your industry. You go and consult with all the independents. You get them together and find out what they want. You hold ratification votes and so forth among yourselves, but we're only going to do one arbitration to ensure that there's one agreement at the end."

There are a number of other amendments we are seeking, most of which we think are quite simple and straightforward and tend to be housekeeping in nature. We are looking to ensure that the arbitrators who conduct arbitration hearings under Bill 69 have the standard powers that other arbitrators have under the Labour Relations Act. We have provided suggested amendments and the reasons are set out in our brief and in our tabbed documents.

We also want freeze provisions to protect our workers. Our members can be on strike up till June 15. Thereafter they are required to return to work and must continue working throughout, and an agreement will be set for them. There must be, in our view, language put into Bill 69 to say what the terms and conditions are that they work under in that period before there's an arbitration decision: what they're supposed to be paid, what their benefits are, what happens if they're fired. We've drafted



amendments which we think mirror other sections of the act, similar situations.

We have requested that language be put in Bill 69 to deal with retroactivity, which we think is a vital concern and will encourage parties to make their own settlements if they're unclear about the retroactive effect of any wage increases or other changes in the agreement.

We also ask you to urge the minister to create a pool of specialized arbitrators for the construction industry. If anybody's going to set our agreement in what is a very difficult field, we feel the industry as a whole, employers and unions, should be able to decide who they are. We're not like any other industry. Nobody wants somebody who might be very good at health care dealing with the construction industry.

There's one further major item with respect to the residential sector which we would ask you to look at, and that is what arbitrators do with what is commonly known as a crossover clause. All of our collective agreements and lots of the other unions in this room have collective agreements which incorporate by reference the terms of other collective agreements, called a crossover. For example, our concrete and drain collective agreement incorporates by reference our utilities collective agreement, among others, and says that when the employer does utilities work he should apply the utilities agreement. It is unclear, based on the language of Bill 69, whether the arbitrator has the power to deal with those incorporated by reference agreements. Accordingly, what we're asking is, if the parties go to arbitration, those agreements that are incorporated by reference in the old collective agreement continue to be incorporated by reference in the new collective agreement.

The last point I wish to talk about is the family relationship sections, subsection 1(4) and section 69. We have no problem with what we perceive to be the intent of the sections. We have never believed that a family relationship in and of itself should be enough to establish a related successor employer on the sale of the business. However, it seems absurd to us that the labour board should be the only people in the room not to know that there's a father and son involved, or that they have to maintain a legal fiction that Mr X and Mr X aren't somehow related. It seems to us that if the Legislature wishes to send a clear message to the labour board that family relationships should not be determinative, then the legislation should not say they can't consider a family relationship, but they should just not consider a family relationship as being determinative, and we've drafted something accordingly.

I'm sorry, I went through very quickly. We have tried to outline it in our materials. We put in our earlier positions throughout the process. We have tried to maintain consistency. I'm sure Mr Dionisio will speak to this further if he's asked questions. We've included our newsletters to tell you about us. I think I can say this: You're all welcome to come and visit us if you want to see our union and what we're trying to do to make sure our industry works and has a workforce for the future.

**The Chair:** Thank you very much, Mr Lewis. We have run out of time, gentlemen, unfortunately.

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#### MASONRY INDUSTRY EMPLOYERS COUNCIL OF ONTARIO

**The Chair:** We'll go to the next presenters, Mr Blair, Mr George and Mr Bannon, representing the Masonry Industry Employers Council of Ontario.

**Mr John Blair:** Madam Chair, members of the committee, we appreciate your indulgence. I'm sure that over the course of the last three days you've heard most technical and rhetorical arguments, so we're not going to beleaguer you with more.

As the Masonry Industry Employers Council of Ontario, we represent the signatory employers in the ICI sector across the province. Simply put, we are in support of the amendments as they are tabled. We believe in some of the people and the representatives from both labour and management who were at that table. We believe that the consultation process that they've come out of is a compromise. It has been done by consensus and it results in legislation that we believe will affect the unionized sector in Ontario, will make it more competitive and will advantage our employers.

It's also understandable that the second issue we've addressed here may come as a surprise to some of you. I am cognizant of the fact that the issue between the International Union of Bricklayers and Allied Craftworkers and the Brick and Allied Craft Union of Canada is in fact before the Ontario Labour Relations Board, therefore we're sensitive and understanding that people would not wish to comment on the particulars of that issue. However, I'd like to draw your attention to one simple fact that we believe is important. In the amendments that are tabled, there is no provision to deal with the employer community while these union factions are dealing with each other in this process.

We have a concern, and it is one we've experienced over this last three years. Inasmuch as we have tremendous regard for the right of a trade union to seek status as the certified employee bargaining agency, and in turn we have tremendous regard for the right of an individual to seek proper representation from a trade union, and to make that decision without any intimidation, coercion or intervention in any way, as the act states, by an employer, it's unfortunate in our minds, however, that the same level of respect is not exhibited by the parties in the course of seeking the status they seek. We, as an employer community, have been called upon to spend a substantial amount of money in an effort to protect ourselves from this spiralling vortex, as I've mentioned here, that has been ensuing at the board for the last three years.

It is not for us to question the merits or the provisions that are set out in Bill 80. We believe those are provisions which are the sanctity of the union to deal with itself in its own internal relationship. However, we have



experienced in our own way the result of this process, and we're asking you folks to look at this in some way to tighten and strengthen the provisions that when this process is going on, the employer community is not required to go and defend itself through a myriad of litigations at the board until the status of the union has been decided. This has been a three-year migraine headache for our community, and the Aspirin has been very expensive.

I thank you, and we'll entertain some questions. I've brought David Bannon, who is counsel for MIECO, here in case there are questions regarding a legal nature, and I've asked Mr Eugene George, who is the chairman of MIECO, to be here as well. Thank you very much.

**The Chair:** Thank you. We have time for just perhaps a couple of questions from each member.

**Mr Gill:** I just want to make a comment. I appreciate you coming in, first of all. I think you put it in a nutshell, in a way, when you say you support Bill 69 and the agreement was reached by consensus. I appreciate that and I'd like to put that on the record because that's what we've been saying from the beginning, that it was the process to follow. I suppose to some extent that has been successful. Thank you.

**Mr Eugene George:** I would just like to comment on mobility. The mobility factor for a person like myself—I've been in business 51 years now and the last few years have been very difficult. With the help we're getting in mobility, what will happen to us is that many of our people will be able to transfer out of an area, from, say, Kitchener to Galt, which is only a matter of six miles away, or Guelph, 11 miles away. Under the old system in the hiring hall, we could not do that. So this certainly is a benefit.

The other benefit that I see out of this is apprentices. I used to train 60 apprentices. We haven't had but one or two, and one of the basic reasons is that we can't develop enough hours in a particular area, such as the Kitchener area, to keep these apprentices busy. This is certainly going to help me in developing apprentices. Many of these apprentices have become our competition, our superintendents, our foremen and our tradespeople, and from that point I think it's great.

**Mr Bartolucci:** Thank you very much for your presentation. I have some concerns about the mobility issue and the naming issue, among other parts of the bill that are bothersome to me. But let's talk about mobility for a little while, Mr George.

I'm from Sudbury. My best friends are bricklayers because I grew up in the construction industry. They have to work with this. Because you're going to bring your company from southern Ontario, you're going to have the opportunity to bring 40% of the workforce with you. Whether you're going to or not, you have the opportunity. When you get there, you're going to be able to name another 60% or the other 36. So you're not going to take my paesano Armando, who's 51 years old and has a bit of a sore shoulder. I really worry about that because he may not be on next at the hiring hall; he may not be

the next guy to get a fair shot at it. How are you going to tell my friends in Sudbury that mobility and the naming issue are fair to them?

**The Chair:** Can you answer that in about 10 seconds?

**Mr Blair:** If I can, really quickly. The fact is that there's a geographical reason why you don't want to bring people that far. You have to pay them to travel that distance, and within the provisions of the agreement there has to be a mechanism so that you're going to bring those people in.

The other part I'd like to applaud you on is your selection of friends. The bricklayers have been mentioned a lot during the course of the process, and we're happy. We're an industry that's looking to promote itself, so I appreciate that. I understand your concerns, but we have every reason to believe that there are qualified tradespeople in Sudbury, as there are in Kitchener. I want to point out too that despite the item that I mentioned here with regard to the two union factions, we still believe the unionized sector is the best sector and we still believe, despite some of the wranglings, that consensus and compromise are the best vehicles, even when people don't seem to be as willing to listen, sometimes, as they need to or ought to.

**The Chair:** Mr Christopherson, you have time for one question.

**Mr Christopherson:** I just want to pick up on the answer you gave Mr Bartolucci, when you said you wouldn't pay that much money for travel and allowances. Under this new law, if you want to make an argument that the fact that you have to pay accommodation and travel under the collective agreement has made you uncompetitive or put you at an uncompetitive disadvantage, then you can apply for relief under Bill 69 and effectively have all those accommodation costs and travel allowances wiped out.

Also, we're hearing so far, and I don't hear the government making the case any differently—we still have the notion that the 40% could be changed under the same clause. Some of the answers you gave in terms of assurances: I have some concern they aren't protected by virtue of the new language that's in 69.

**Mr Blair:** If I can address your question—I believe that's a question. The provisions that are set out and tabled in these amendments. If one were to look at the existing collective agreement that we employers now have with the union, you would find that many of the mechanisms that are set out there and the ones that have been tabled are in fact a part of this agreement. Inasmuch as I'm not going to sit here and promote or try and present as if we have a Valhalla arrangement, I am cognizant of one thing. The realities of the marketplace and the fact that there are good, qualified tradespeople within the bricklayers' union allow us to operate. That's why we're not here tabling and recommending double-breasting. We are saying we believe we can work within the system. These amendments will clear the lines of communication and make it better for us to operate.



**The Chair:** Thank you, gentlemen, for coming this afternoon.

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### ELLIS-DON CONSTRUCTION

**The Chair:** The final presenter for the evening is Mr Bob Smith from Ellis-Don.

**Mr Bob Smith:** My name is Bob Smith. I'm vice-president of Ellis-Don Construction. I'm taking a little different tack. I'm going to start by telling you a bit about Ellis-Don. It was started in 1951, building primary schools for the baby boom and then grew to high schools as the kids got a bit older and in fact blossomed on as a major general contractor on the University of Western Ontario campus. It grew from those roots to Stratford, Sudbury, Timmins, Ottawa, chasing opportunities. The biggest job it had in those days of growth was the University Hospital in London, and I'll speak a bit about that in a minute.

We turned to the larger market in Toronto and over time we became the largest contractor in the Toronto market. By then, we were the biggest contractor in Ontario and we were the best contractor in the country. We grew from Halifax to Vancouver from a solid base in the London market, where to say we were pre-eminent would be a gross understatement for the London market.

My father, Don Smith, who was largely responsible for this growth, rode the success of this company to make further significant contributions to the province, for which he was awarded, among other recognitions, the Order of Canada, the Order of Merit from the Canadian Council of Christians and Jews and he was the champion of the Boys' Club in London, among many other contributions to the community. What a great story. What a great Ontarian. What a great Canadian. What a great legacy to leave to his corporate and his immediate family.

Then came the "Oh, my God," labour relations ruling of 1992. You've already heard the incredible impact that this ruling has inflicted: 280 companies, probably mostly family companies smaller than Ellis-Don, but some pretty large companies—all union, all gone. Only eight left. Think about it.

Ellis-Don, builder of the SkyDome, here today begging for its life. Imagine. You have heard and know the details of what that ruling and the foregone union deal to fix it in 1997 has meant to the eight general contractors. Some of our competitors have protested that they prefer the status quo. Let's understand why. The electrical contractors have said they prefer us shackled. Let's have a look at their motivation too.

But I'm here to give our viewpoint, to convey in a sensory fashion that you might understand the fear within our company. If we lose this round, this flight of logic will have prevailed and our company will fail. With its proud heritage, its proud employees who own almost half of the company, we will fail—not without a fight worthy of our valiant and loyal troop, but fail regardless because

of the unfair laws of our province, wrongly interpreted, and the small-minded special interests who have so little to benefit from our undoing but who push for it anyway.

Let me paint a few pictures for you. University Hospital and Victoria Hospital in London, now the London Health Sciences Centre, both built by Ellis-Don in our past, are looking for significant expansion as part of the \$1-billion hospital expansion now coming in Ontario, looking for a competent contractor with whom to partner in their planning as well as their execution. Respectfully, there is no one more qualified than Ellis-Don to fill that role for those hospitals in London.

But they won't consider Ellis-Don at all. They can't consider Ellis-Don because of unfair Ontario laws. Imagine. Ellis-Don, builder of more hospitals in Canada than any other contractor, cannot be considered for these London hospital projects. Think about it. Does that sound right to you?

Let me paint a picture of a lump sum bid. A project comes in for a lump sum bid for a preferred client of Ellis-Don; a short list of bidders and, luckily, all union, save one. Estimating studies the drawings to map out Ellis-Don's plan, unique, we hope, in meeting the owners' requirements at the most competitive price. We've checked the bidding subs and because of the size and complexity of the job, only major unionized subs are bidding. We're pretty happy about this.

Two and a half weeks of late nights and then the day of the closing, only one surprise: A non-union structural steel subcontractor we didn't expect phones in a bid \$250,000 lower than the lowest union bid. All our efforts are now wasted—two weeks. We will not get the job. Our competition, PCL, Bondfield, BFC and other members of COCA, get the same bid. They know as soon as they get it that one, and maybe two of the bidders, if Eastern or VanBots is also bidding, are toast. One or two bidders. Life is good.

Now yesterday Earl Roberts of the electrical contractors, the same group who killed the 1997 union agreement to let us out of this tragedy, stated that the eight generals cannot be treated fairly because they represent \$100 million worth of work for his group outside of area 8. We did a double-check on the veracity of that figure last night and the correct number is less than \$20 million. I would like to stress to you the intentional misdirection attempted by inflating figures of that ilk.

But let's go back to my example of the low, non-union structural steel price. Ellis-Don, because of that price, is toast. But is Earl Roberts and his group? Nope. They can still deal with the other union contractors, the PCLs. Guess what? If Bondfield, the non-union contractor, gets the job, they can deal with him too. Anybody here smelling a rat?

Let's look at construction management against some of my non-shackled brethren. I came out of a presentation for construction management services for a new client some months ago and met my competition on the way out. After presenting our proposal and introducing

our proposed staff for their project, the owner's questions make it crystal clear that my competition, who stand in front of you protesting that changing the status quo offers an unfair advantage to the group of eight, have laid it all out. One of their biggest attributes is that they can contract with all subcontractors, except where they themselves are bound, while Ellis-Don can't, and they told. This is their marketing strategy against us. If they have explained it well enough to the owner and if the owner understands it well enough, then they win. We're toast. Great marketing strategy.

Ellis-Don has gone coast to coast in Canada, but in all honesty Ontario is the core business. We've gone to the USA, Malaysia and the Caribbean, but Ontario is the core. If we don't make it here, we don't make it.

Is anyone much further ahead putting us down and potentially out? Not much; maybe just a little. Yet they parade in here to get their last easy nickel before we die. The OGCA members will compete without Ellis-Don to worry about. The electrical contractors will have to compete without the easy in that they now enjoy with the last eight, until the last eight are all dead. Then I guess they'll have to cope with the real world.

The six civil trades whom we would have continued to employ will have one less or potentially eight less sources of employment. The other unions won't even blink. They won't address their competition issues until they jump up and bite them in the nose—a different issue. But the legacy of one of Canada's premier contractors will be lost, not of natural causes but through the province, through its unfair laws and its acquiescence to special labour interests, who sat by and let an obvious and blatantly unfair series of misfortunes run its course.

On behalf of all the shareholders, employees and other stakeholders in one of Ontario's proudest companies, I am asking and pleading: Do the right thing. Level the playing field and give us a fair chance at having a future by making a legislative amendment to let the eight generals out of the building trade agreement or at least, at a bare minimum, out of the agreement in board area 8. Thank you very much.

**The Chair:** Thank you, Mr Smith. We perhaps have time for one quick question from each.

**Mr Bartolucci:** I just have one quick question. The answer for you is getting rid of 1(4), clearly?

**Mr Smith:** Subsection 1(4) would be perfect. Thank you very much. I'll take that.

**Mr Bartolucci:** But it would only be fair to you.

**Mr Smith:** We would take getting out of the building agreement but across the province. Shackling us in board area 8 and especially when six out of the eight make their primary living here is just unconscionable. It's Ellis-Don's main market within the province, and Ellis-Don's main market is the province of Ontario.

**Mr Bartolucci:** The Alberta model hasn't been successful.

**The Chair:** That's two quick questions. Mr Christopherson.

**Mr Christopherson:** I appreciate you coming in today, trying to sweet talk us.

**Mr Smith:** It's my charm.

**Mr Christopherson:** Yes. Oh, well, lots of it too. I have to tell you, I was reminded of the former chair of General Motors, who roared, "Whatever is good for General Motors is good for the good old US of A." I think it's a little more detailed than that.

Let me ask you, though, would it not make sense perhaps in the overall interest of the number of Ontarians who are employed by your company and others if we tried to raise everybody else up closer to where the union rates are rather than lowering everyone else down?

**Mr Smith:** We have no problem with union rates, and we have no problem with the six civil contracts with which we are hired and which we are quite happy dealing with. Union construction is a great source of qualified labour and we know we have it with existing agreements wherever we work within the province. We're not dissatisfied with that. What we are dissatisfied with is the building trades agreement which binds us to unions where we never have had one single employee, and that constitutes a horrible burden to us that we just cannot, in the long term, overcome. There is no possible way. I'm here pleading and I'm not being anything but most serious. This isn't one of our shareholder meetings.

**Mr Christopherson:** I really think there was an opportunity for the government to look at this a whole lot differently. I haven't yet had one employer come in here and say, "That would be a disaster if I had to deal with everybody out there in the construction industry that was unionized." Quite the contrary. I've got one employer who talks about the fact, "Our above-average safety records are due in part to the fact that we have fully unionized companies." Those of you who employ unionized construction workers have a 250% better health and safety rate in terms of workplace accidents. It makes a lot of sense to me that what the government should have done is start to put in legislation that makes organizing easier and raise everybody's standard of living, rather than going around trying to knock everybody down in this province.

**The Chair:** That was one question and one statement.

**Mr Smith:** Very quickly, I have no objection to what you said at all. This is not a plea for 1(4). This is not a plea for double-breasting or non-union. This is a plea to get out from under the building trades agreement in Ontario, which is a tremendously onerous and unfair situation for the eight contractors.

**The Chair:** We'll go over to Mr Gill.

**Mr Gill:** Just to thank you for coming by. No further questions.

**The Chair:** Ladies and gentlemen, thank you very much for your patience. I do apologize for being late this evening. However, I just want you to know that we will be travelling next week and considering clause-by-clause on May 29. Again, have a great weekend. Thank you for coming.

*The committee adjourned at 1823.*











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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 24 May 2000

# Journal des débats (Hansard)

Mercredi 24 mai 2000

**Standing committee on  
justice and social policy**

**Labour Relations Amendment Act  
(Construction Industry), 2000**

**Comité permanent de la  
justice et des affaires sociales**

**Loi de 2000 modifiant la Loi  
sur les relations de travail  
(industrie de la construction)**



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

Présidente : Marilyn Mushinski  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Wednesday 24 May 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mercredi 24 mai 2000

*The committee met at 1105 in the Ambassador Hotel, Sudbury.*

LABOUR RELATIONS AMENDMENT ACT  
(CONSTRUCTION INDUSTRY), 2000LOI DE 2000 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL  
(INDUSTRIE DE LA CONSTRUCTION)

Consideration of Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry / Projet de loi 69, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui a trait à l'industrie de la construction.

**The Chair (Ms Marilyn Mushinski):** I think I'll get the meeting underway. Good morning, ladies and gentlemen. I'm Marilyn Mushinski, Chair of the standing committee on justice and social policy. I apologize for being a little late this morning. Unfortunately, our flight was somewhat delayed.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS  
CONSTRUCTION COUNCIL OF ONTARIO

**The Chair:** This morning's meeting is to discuss Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry. Delegations will be allowed to address us for 20 minutes; that includes questions from the committee. The first speaker is Mr Larry Lineham, business manager of the International Brotherhood of Electrical Workers Construction Council of Ontario. Good morning.

**Mr Rick Bartolucci (Sudbury):** Madam Chair, just before Larry Lineham starts, I'd just like to welcome the committee and our guests to Sudbury. Sudbury people are always used to starting on time and all the Sudbury people were there but, you know what, Air Ontario will have to be forgiven. No one else is to blame. Thanks, Madam Chair, and welcome to Sudbury.

**The Chair:** Thank you. It's funny, I thought I flew Air Canada.

**Mr Larry Lineham:** As you stated, my name is Larry Lineham and I work for the IBEW Construction Council of Ontario. I'm going to skip the issues in the background—they're in the written submissions—and I'm

going to go right to page 3 because I'd like to get a few things in before my time allotment is over.

I want to discuss the new legislation, Bill 69, specifically the mandatory default hiring hall provisions which allow employers mobility for up to 40% of the total number of employees from any local or locals in the province required for a project anywhere in Ontario. Further, the employer will be able to select or name-hire 60% of the employees from the local union in whose geographic jurisdiction the work is performed.

For example, on a project in Local 1687, Sudbury, requiring 100 electricians, 40 electricians could come from one local or a combination of locals in the province. Local 1687 would supply 60 electricians, of whom 60%, or 36, would be name-hired from their out-of-work list. In total, the employer could name-hire 76 out of the possible 100 electricians on the site.

The view of the IBEW CCO is that this process gives the employer the right to name-hire the same individuals for all of their projects across the province and results in an unfair advantage of some members over others. It will create two economic levels in the province—the haves and the have-nots. It will pit member against member and local against local. It will create an imbalance in hiring within the province. Smaller communities and smaller locals will suffer the most. Can you imagine a company taking 40% of a crew into an area that has been in the grip of unemployment for a prolonged period of time? How do you think the members in that geographic area are going to react? How will older members, previously injured members and members who have taken on the role steward and health and safety representatives fare in this selective hiring process? In our opinion, these individuals will be blackballed and subsequently they will become a subclass who will never be selected by an employer. The end result will be a system of hiring that's based on favouritism and nepotism.

Section 163.2: This section gives the employers the right to seek amendments to virtually every clause in the collective agreement save statutorily regulated holidays and hours of work. Employers can seek exemption from clauses like wage rates, overtime pay and shift differentials, benefits, travel, room and board allowance and requirements respecting the ratio of apprentices employed by an employer, to name a few.

A provincial employer bargaining association, an EBA, and a designated regional employers' association



of the bargaining agency may apply for amendments for all work anywhere in Ontario providing at least some of their members carry on business in that particular geographic area. For example, a Toronto contractors' association may apply for amendments to any local union appendix in the province provided that some of its members perform work in that area.

The IBEW CCO's view is that this section severely undermines the collective bargaining process, as the employers have no incentive to bargain in good faith as they have an avenue to seek changes to the collective agreement outside of negotiations. In effect, this section of Bill 69 renders the collective bargaining process meaningless. It opens the door for an employer to coerce a local union into accepting certain amendments or else face the threat of going to final offer selector with the possibility of even greater cuts.

Section 163.3: This section of Bill 69 deals with a very complicated arbitration process. The application by an employer for amending a local's collective agreement must be responded to within seven days. If the local does not agree within 14 days, the application may then be referred by the employer to arbitration. Both parties—the union and the employer—are entitled to put forward a final offer with respect to the provisions of the collective agreement the employer association wants to amend, along with written submissions. Should an arbitrator not be agreed upon by both parties, either party may make a written request to the Minister of Labour to appoint an arbitrator. The appointed arbitrator is not required to hold an oral or electronic hearing unless he or she feels it is necessary to resolve an issue arising out of the submissions. The only relevant factor the arbitrator is to consider is whether or not the employer organization's members are at a competitive disadvantage. The arbitrator must determine if there is a competitive disadvantage and, if so, determine whether that competitive disadvantage would be removed if the collective agreement were amended in accordance with the employer's application.

The view of the IBEW CCO is that this section of Bill 69 is designed to force unions to make concessions. There are no stipulated criteria as to what constitutes a competitive disadvantage. Therefore, any or all clauses in the collective agreement would be susceptible to an arbitration. The issue of selection of an arbitrator is also of grave concern to our organization. If an arbitrator is not agreed to by the parties, either party may make a written request to the Minister of Labour to appoint an arbitrator. Should an employer organization purposely not agree to an arbitrator for whatever reason, then the minister shall appoint. This raises the issue of an arbitrator's experience, specifically in the construction industry, their qualifications and neutrality. What further taints this process is the Minister of Labour's apparent disdain for current arbitrators, asserting that they are biased in favour of the unions.

The process outlined in this section of Bill 69 will be costly and time-consuming for both the employer and the union, as it will require industry studies, briefs and

experts such as economists. There can be no doubt as to what this arbitration process will do. By design, it will lower the wages and working conditions of the union construction worker in one form or another. That part of the arbitration process is obvious.

Bill 69, section 126: This deals with the related employer and the blood relations. I'm just going to skip to the IBEW CCO's view. The view of the IBEW CCO is that this section of Bill 69 now states that family relationship cannot be a factor at all in determining an application. For example, if an owner of one company sets up a second company and puts it in his wife's, son's or daughter's name, the OLRB is not even allowed to consider that fact. The "key person" referred to in this bill has nothing to do with family relationship and requires that the individual hold a formal management position.

The effect on a union's ability to win an application under this revised section of the act will be dramatically curtailed. With the family relationship being barred from consideration, there will never be common ownership of the two companies by one person, as the second company will be in the name of a family member. In the key-person application, how will the union be able to substantiate that an estimator is a key person? It can be argued that a superintendent or an estimator does not occupy a formal management role. Thus, while it was very difficult to win a key-person application before, now it will be almost impossible.

Section 160.1: The view of the IBEW CCO is that this section of Bill 69 was created to allow the general contractors, with the union's blessing, to abandon their labour agreements. This section of the bill falls in step with our understanding that the government is contemplating exempting eight general contractors working outside of Toronto and board area 8 from their province-wide collective agreements. We are not in favour of automatically releasing the general contractors in Ontario or in any specific locations in Ontario from the existing collective agreements under which they currently operate. We must clearly state our objections to any government action that will release general contractors from the signed collective agreements, whether it be inside of Toronto and board area 8 or across the province. Taking this direction would put the Ontario government in the position of nullifying existing signed collective agreements, and we do not believe this is the correct role for government.

Unionized electrical contractors currently do about 10% of their work through the eight large general contractors who are seeking release from the province-wide collective agreements for work outside of Toronto and board area 8. Currently, when contractors need workers beyond their employees, they hire from the local union in the area specified in the collective agreement.

Should these general contractors be automatically released, the unionized electrical subcontractors will likely suffer a loss of business as the general contractors will attempt to make greater use of non-union subtrades and workers. The result will be fewer employment oppor-



tunities for unionized electricians. This will in essence give an unfair advantage to these already large general contractors, creating hardships for smaller- and medium-size contractors.

If we continue down this path, it is quite conceivable that a situation could be created where the marketplace is controlled exclusively by eight or fewer large general contractors. Eventually, it is quite conceivable that the Ontario construction industry would be at the mercy of three large general contractors, as is the case in Alberta.

The preceding were the views of the IBEW CCO. I have some observations as the past business manager of Local 1687, having 15 years' experience and having been a construction worker since 1958. We are told the premise of Bill 69 is to address the non-competitiveness concern of the unionized subcontractors in Ontario. If this is the case, I do not understand how allowing the eight general contractors to get out of their contractual obligation to subcontract work only to union subcontractors will make those subcontractors more competitive.

This bill, with its mobility provision, will not help the local economy of small communities in northern Ontario. Because the majority of contractors who are the successful bidders on all major projects in the north come from southern Ontario, this mobility provision will only exacerbate an already gloomy employment picture in northern Ontario.

The name-hire provisions of this legislation are a direct intrusion in collective agreements and interfere with the union's rights and obligations under the Ontario Labour Relations Act to distribute work to its members in a fair and equitable manner. Even the employment insurance commission, in numerous decisions of record, has referred to the hiring-list system as a just manner of distributing work through the hiring hall. Many briefs have alluded to the flaws in the designated regional employers' organization provisions of Bill 69 and the problems with multiple final offers which may flow from this.

This very serious problem can only have a detrimental effect on labour relations stability in Ontario. It is ironic, and I'm sure not missed by some of you, that the Electrical Contractors Association of Ontario, which is one of the proponents of the repeal of section 1(4), continues to spend over \$500,000 a year, with their partners, the International Brotherhood of Electrical Workers, extolling the virtues of the way we negotiate our collective agreements, without the threat of a strike or lockout. This begs the question: What are their motives in this exercise?

My concern is that Bill 69 will leave some union members unemployable and put a strain on the programs the unions have developed for their members, such as health plans and pension plans, which will cause the plans to collapse. When this happens, the burden will be shifted to the provincial welfare system and fuel the underground economy. I am surprised that our local politicians, who continually criticize the migration of our young people to southern locations, aren't here berating this legislation, which will effectively give northern jobs in northern locations to southern Ontario workers.

On April 25, 2000, at the Colony Hotel, Labour Minister Stockwell asked the broader labour caucus, when he announced the language in Bill 69, "Do you believe that an electrician from Wawa should make the same as an electrician from Toronto?" Given the long winters, higher price for gas, cars and food, the poor roads and, in some cases, the lack of paved roads that we use to go to work, I would answer that question today, "No, we should get more."

As a business manager of a 500-man local, I lost more members to traffic accidents going to work than locals 12 times our size. Highway 144 is a good example of what we use to get to work: two narrow lanes and no soft shoulders.

But this statement by Mr Stockwell, coupled with others by southern bureaucrats like the one made to Gerry Loughheed on cancer travel grant inequities, that that's the price you pay for living in places like Kapuskasing, only stresses the disdain people have for northern residents. For that reason, I would request that this committee recommend not passing Bill 69 as it stands and would seriously consider the recommendations coming from the labour partners for amendments that would make this legislation more workable.

Respectfully submitted, and I thank you very much for the time.

**The Chair:** Thank you, Mr Lineham. We have about five minutes for questions, and we'll start with Mr Bartolucci.

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**Mr Bartolucci:** Thanks very much, Madam Chair. Larry, thanks very much for your presentation. Certainly, I think you've outlined the concerns of northerners with regard to the mobility and the naming issues. You know the mechanics. You've been around long enough to know that this is a Conservative majority government. If they choose to pass Bill 69, they will. There has been no hint that the government is going to withdraw this bill.

If in fact they don't withdraw it, what are the three major amendments that the government has to include in the legislation to make it fairer legislation for—in particular, because I'm from the north—northern workers?

**Mr Lineham:** The first major issue they have to deal with is the hiring immobility. They refer to it as mobility, but it's not mobility; it's actually hiring outside of the local. That's an issue that I think has to be addressed. For local unions that rely on the list system 100%, this is a drastic deviation from the way we do business, to be allowed to name-hire 76% of their employees. That's the issue that has to be addressed.

Another major issue that has to be addressed is the open door to multiple final offers. I believe the brief from the EBAs addresses that issue, where it has to be restricted. In other words, designated regional employer organizations—there only has to be one per area. There's only one bargaining agency per area per trade, and I think that's what has to be addressed.

With regard to what other changes, I certainly think we have to look at opening the collective agreements.



This is an intrusion. I really think there could have been more input from the north into the process, and I've got to admit that I was part of the industry committee. I was one person from the north and I was on the committee, but I can tell you that there wasn't a lot of input that went into this legislation from labour or from the north.

**Hon Chris Stockwell (Minister of Labour):** I have a couple of quick questions. One, set aside the legislation; let's presume it doesn't get passed. Then do you think the status quo is hunky-dory and everything's going fine and there's really no trouble in the industry?

**Mr Lineham:** Do I think there are no problems in the industry?

**Hon Mr Stockwell:** That's my question, yes.

**Mr Lineham:** There are problems in every industry. There are problems in government. I don't know whether you're going to necessarily legislate all of the problems out of the province of Ontario. I'm just concerned about enacting legislation that will create more problems as opposed to eliminating them.

**Hon Mr Stockwell:** OK. The next one is, to put that quote in context with respect to Wawa—not the question of whether or not they should be paid as much, sure they should. But from an economic point of view as far as winning tenders, winning jobs, would you not at least concede that there may be some difficulty because of the economic conditions in Wawa as opposed to Toronto with respect to tendering, pay scales and so on and so forth?

**Mr Lineham:** I'd like to point out, Minister Stockwell, with all due respect, that there are differences in the wage rates in Toronto, northern Ontario, London, Windsor, Hamilton. They're all different rates. The highest rate in the province, by the way, is Toronto. There was recognition given when provincial legislation was brought in that addressed this issue.

I'd also like to say that since 1985 I've been playing a leading role in provincial negotiations, and at every set of negotiations, the contractors have come and congratulated labour. Why would they do that if the contracts are unfair, if the settlements are unfair? It's beyond me.

**Hon Mr Stockwell:** So, basically, there are differentials now?

**Mr Lineham:** There are differentials that exist today.

**Hon Mr Stockwell:** So I was just stating the obvious.

**Mr Lineham:** But I'll tell you something. It's no personal affront to you, but the remark just reflects, as far as I'm concerned, the attitude of people in the GTA towards northern Ontario.

**The Chair:** Thank you, Mr Lineham. Thank you for coming this morning.

SHEET METAL WORKERS'  
INTERNATIONAL ASSOCIATION  
LOCAL 504

MILLWRIGHT DISTRICT COUNCIL  
OF ONTARIO

**The Chair:** The next speakers are Mr Whynott and Mr Stewart from the Sheet Metal Workers' International Association and the Millwright District Council of Ontario. Good morning.

**Mr James Moffat:** Good morning, Madam Chair and committee members. My name is James Moffat, from the Ontario Sheet Metal Workers' and Roofers' Conference. To my far left is Michael Stewart, the business manager of the millwrights' local union here, 1425, and to my immediate left is Tom Whynott, the business manager of the Sheet Metal Workers' International Association, Local 504. Hopefully we'll have some time for questions after the presentation. I'm going to hand it over to Tom. He's going to go through the bill and the impact it's going to have on the local area, and Mike has a position letter that I think the committee's been given.

I just want to reiterate the Ontario conference's position on this bill: We prefer that Bill 69 be withdrawn and not be replaced with the deletion of subsection 1(4). We have, because of the impact and because of the Conservative government majority, proposed some amendments as well.

I'll hand it over to the business manager from Sudbury, Tom Whynott.

**Mr Tom Whynott:** I'm the business manager of the Sheet Metal Workers' International, Local 504. My local represents over 200 sheet metal workers and roofers who live and work in the Sudbury and Sault Ste Marie area. Mr Stewart is with us today. As everyone knows, in construction, we don't always agree on jurisdiction, but we're here today to oppose this piece of legislation, and he will be reading a piece of information for you.

We are here today not to endorse this bill, but to tell this committee that it is a terrible bill and to ask for amendments to lessen the damage it will cause to Sudbury and Sault Ste Marie and to the people who live and work in these cities.

Our first preference is that Bill 69 be withdrawn in its entirety and not be replaced with the repeal of subsection 1(4). We oppose the bill because it will hurt all workers and unions in Ontario for the following reasons:

First, Bill 69 is a race to the bottom. This bill is about reducing the wages for all workers. There is no doubt about that. In one address to the building trades union, the Minister of Labour asked, "Why should a worker in Wawa make the same amount of money as a worker in Toronto?" Ask the people in Wawa if their workers should have their wages cut. I agree with our conference when it says that once unionized workers' wages are reduced to the non-union level, the non-union wages will in turn be reduced even more. This is inevitable. Wages will then go down and down and down.

Bill 69 is not necessary, as ICI collective agreements today ensure that our companies are competitive. Our sheet metal collective agreement presently contains separate local appendices to allow for local unions to agree to changes in wages where necessary. My local union, 504, has a stabilization fund paid for by our members out of their wages, which our contractors use to obtain contracts against non-union companies. For example, the following 11 projects were obtained by our local contractors using the stabilization fund without Bill 69: Au-Chateau in Sturgeon Falls; Wal-Mart in North Bay; Inco, anode casting; Strathcona mine, conveyor gallery siding; Inco, Cantrell; John Rhodes pool, Sault Ste Marie; Famous Players Theatre, Sudbury; Kashechewan school; E.B. Eddy, Espanola mill; Inco flue stack repairs; and the YMCA in Sudbury.

Secondly, Bill 69 is an attack on our hiring hall, and encourages favoritism and discrimination. Section 163.5 of Bill 69 will destroy my hiring hall by allowing employers to pick and choose. It allows employers to import up to 40% of the workers needed for a project from outside Sudbury. This means that 40% of the jobs in Sudbury, which should be given to those people who live and work and raise their families in Sudbury, will go to workers from outside the area, workers who would rather work in their own hometowns but who will be forced to travel by their employers. It allows employers to name-hire up to 60% of the remaining 60% of workers needed. Together, this gives the employers the right to name-hire 76% of the workers needed.

This is shameful. The hiring hall is the heart and soul of my union. It is the protection of my members' need to make sure the workers go to work based on how long they were unemployed. The worker who has been out of work the longest is on the top of the list. This makes sure that every worker gets a chance to work. No one would dare say that this is not fair, except this government. It wants to take that away and give companies the right to pick the same people over and over again. This guarantees that many people will not work. And who will get picked? The company favourites. Who will be ignored? The members of Local 504 who are on workers' compensation. We have six of them right now. Do they not have the right to work? Who will be ignored? The older members of Local 504. We have 36 members over 50 years old. Do they not have the right to work?

**1130**

The worst part about this is that it is not necessary. It is not necessary because all our members are either certified journeymen with five years of apprenticeship or registered apprentices supervised by a journeyman. It is not necessary because article 25.1 of our sheet metal collective agreement requires me to supply our contractors with qualified workers. In the last 25 years we have never had a grievance with respect to this issue. Why? Because we always supply qualified workers.

Bill 69 is an attack on our free collective bargaining. The members of Local 504 have elected me to represent them in their dealings with their employers. They have

elected me to negotiate decent wages and welfare benefits and pension plans on their behalf. They are being betrayed by this government. If Bill 69 passes, they will have a union but no right to have a say in their working lives.

Instead of democracy, Bill 69 says it is big government in Toronto and big employers from Toronto who will decide who works in Sudbury and how much Sudbury workers will receive. It is big government and big employers who will decide where Sudbury workers will work, when they work, and whether or not they get a pension.

While this bill attacks all workers in Ontario, it especially hurts workers outside Toronto for the following reasons:

First, subsection 163.5(1) will allow employers to employ up to 40% of the total number of employees required for a project from anywhere in Ontario.

Secondly, the government is attempting to allow large general contractors such as Ellis-Don and Van Bots Construction to operate non-union for some work, but only outside Toronto.

Thirdly, section 163.2 enables companies from Toronto to seek reductions in wages and benefits in communities throughout Ontario. Thus, Toronto employers will be able to gut our Sudbury collective agreements which were negotiated by local unions and local contractor associations.

What does this mean for Sudbury and many of its workers? It means unemployment and poverty. Many workers in Sudbury stand to lose their jobs, jobs with good wages which support them and their families.

This will occur for two different reasons. Allowing employers to employ up to 40% of the total number of employees required for a project from anywhere in Ontario means that up to 40% of unionized workers in Sudbury will lose their jobs. We have a lot of outside contractors, mostly from Toronto, working in Sudbury. Right now they have to use our members, but if Bill 69 is passed, these companies will not employ Sudbury workers for Sudbury jobs. Instead, they will force their own employees to travel to Sudbury. Bill 69 says to Sudbury workers that we do not have a right to work in the very town where we live and raise our families.

The following projects in Sudbury were done by sheet metal companies from outside Sudbury: Laurentian Hospital expansion; A&P, North Bay; call centre, Sault Ste Marie; Inco SO<sub>2</sub> abatement program; E.B. Eddy, Espanola; Ontario Hydro, Timmins; casino, Sault Ste Marie; St Mary's Paper, Sault Ste Marie; Algoma Steel, Sault Ste Marie; paper mill, Iroquois Falls. The total number of jobs was 115. If Bill 69 had been passed earlier, 40%, or 46 Sudbury workers, would have been unemployed.

The Minister of Labour has stated that the collective agreement requirement to pay accommodation and travel is protection for workers and ensures that the 40% rule will not be abused by employers. This is not true for two reasons. First, we have received a legal opinion which states that section 163.4(4) removes that protection by



allowing arbitrators to amend collective agreements with respect to accommodation and travel. Secondly, our members travel all over the Sudbury and Sault Ste Marie areas. Our agreement covers 35,000 square miles. For example, our members travel to Blind River, Elliot Lake, Chapleau, Kirkland Lake and Wawa. This means that any worker who works in those towns will have to receive accommodation and travel unless the arbitrator rules otherwise. Therefore, if Toronto companies have to pay travel and accommodation, it is obvious that they will use their own employees from Toronto and not Sudbury.

As I said earlier, Bill 69, section 160, if changed, will allow big Toronto-based general contractors to decertify from the sheet metal workers' union and other non-civil trade unions, but only outside Toronto. Therefore, the government wants Ellis-Don to be union in Toronto but not in Sudbury.

It is true that these general contractors have not been in Sudbury for a long time, but we know that if Bill 69 passes, they will be coming here in droves. Will this provide employment and/or decent wages for Sudbury workers? No. First, they will bring as many people as they can from outside Sudbury. Secondly, if there are jobs left over for Sudbury workers, they will be at low-end, non-union rates, with little or no benefits and pensions. As our members lose their jobs or are lucky enough to work at lower rates, this will have a terrible effect on the town of Sudbury as it will see a reduction in taxes paid to the city and a reduction in spending generally. This will mean less money for public services, support for local merchants and charities.

To lessen the damage which will be caused to Sudbury and other smaller communities outside Toronto, we request the following amendments. I also request that the government accept the proposed amendments made by our conference in its brief.

For the sake of the people in Sudbury, we urge you to listen to what we have to say and withdraw Bill 69, or at least make these amendments. Thank you.

I'd like to present Mike Stewart, business manager for the millwrights.

**The Chair:** We have about six minutes left.

**Mr Michael Stewart:** I just have a letter of support to read and I won't take up much of the committee's time. You're going to be hearing the same thing all day. I just want you to consider the importance of it, rather than bore you all day with it.

"This is to advise that we have read the brief put together by the Ontario Sheet Metal and Roofers Conference that is to be presented to the Ontario provincial government re ... Bill 1(4) at meetings in Windsor and Sudbury next week.

"The Millwright Regional Council of Ontario hereby requests that your association"—and I'm speaking of the Sheet Metal and Roofers Conference—"append the name of our organization to this brief and speak on behalf of our affiliated local unions in the province of Ontario."

I represent about 175 members, millwrights here in northern Ontario. This bill would just be devastating to

our membership. That's all I have to say on it. Mr Whynott has presented the brief and we're in full support of it.

**The Chair:** Thank you, Mr Stewart. Members of the committee, there are about five minutes left, so I will ask each member to limit their questions to about a minute and a half.

**Ms Shelley Martel (Nickel Belt):** My colleague Dave Christopherson, who is our labour critic, was due here. I gather there was trouble in Toronto last night and that's why he's not here. I apologize for that.

Let me just ask a couple of questions. Because I don't understand it all that well, can you explain to me how you use the stabilization fund for your members to, in essence, help contractors obtain contracts?

**Mr Whynott:** It's pretty simple. My members contribute \$1 an hour of their pay to a stabilization fund. The contractors will come to me and say, "These non-union companies are bidding on this job and we feel that in order to be competitive and get this job we need a rate of around \$18 an hour." I'll use that for an example. Our rate is \$26 an hour, so we would stabilize the job, \$8 per man-hour on that job, so that in essence the company is paying \$18 an hour and the members are paying the \$8 an hour out of their own pockets to themselves.

**Ms Martel:** Clearly you've provided us with projects where that has all worked and the contractors have then been able to get those jobs.

Let me ask you a second question, because you raised a number of concerns about the name-hire. What's your real concern there, that people who are on WCB, people who maybe are health and safety activists, are going to go to the bottom of the list and will never be seen again?

**Mr Whynott:** They won't go to the bottom of the list. With this bill, the company just comes in and says, "I want this, this and this," and they will get stepped over and left out, until I have the—what is it?—24% that I can send to them, if it ever gets that far.

**Ms Martel:** As you said earlier, people are all very well qualified. There's no question about that.

**Mr Whynott:** Most certainly.

**The Chair:** Minister Stockwell?

**Hon Mr Stockwell:** No, I think I'll go to Rami.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Carrying on a little further to Ms Martel's question, this \$8 per hour, is it the workers actually putting in \$8 or are they saying, "OK, I will forgo the \$8 and I'll be happy with \$18"?

**Mr Whynott:** No, they are actually putting in the \$8. As I said, all the workers are contributing \$1 an hour for every hour they work. It goes into a fund. The fund builds up and, as I said, the contractor will come and say, "I need \$8 an hour to get this work." The contractor still pays my members the full wages and benefits and pension. Once the job is over and he has X amount of hours at \$8 an hour, I give him the balance, I give him the cheque. But it is paid for by the members.

1140

**Mr Gill:** In the first amendment, it says, "...the bill be amended to ensure that Sudbury companies must employ Sudbury workers wherever they go."

**Mr Whynott:** Yes.

**Mr Gill:** So you're proposing that if they happen to be finding work in Toronto or Hamilton, they take their workers.

**Mr Whynott:** Sudbury workers.

**Mr Gill:** I sympathize with you, but in a way, you're saying the Toronto companies can't bring their workers here but Sudbury workers should be able to go there. I think it shows the mobility. I think it's a good thing. They take 40% with them and 60% name-hire. So in essence that's exactly what you're saying. They should be able to go there.

**Mr Moffat:** I think what that amendment does is—what we're talking about is that a large employer out of the Toronto area has the right to choose workers from anywhere in the province and take them to a project in Windsor or Sudbury. That's what we're talking about here. If that employer is based in Toronto, he can choose workers from anywhere in the province to work on a project outside of Toronto. I think what we're saying here is that if the employer is based in that location, then he should only be allowed to take those employees with him, not pick and choose from all over the province.

**Mr Bartolucci:** Thanks, Tom and Mike, for your presentation. I only wish you would have read your amendments into the record because they're very good amendments which address the needs of the north very clearly and very honestly.

I don't know who wants to answer this. The sheet metalists are a compulsory certified trade, if I'm not mistaken.

**Mr Whynott:** Yes, they are.

**Mr Bartolucci:** With regard to apprenticeships etc, how does this legislation affect health and safety? I think we haven't focused enough on health and safety in this whole discussion over the course of the last four days and I'd like to highlight that a little bit today.

**Mr Moffat:** It wasn't too long ago that we sat in this very same room when the government introduced some legislation on reforming the Apprenticeship and Certification Act, Bill 55. In unison, the construction industry—employers and labour—argued against the bill. What the government wanted to do in the bill at that time was eliminate the mandatory wage rates and the ratios. There are some minimum standards that fall under the Apprenticeship and Tradesmen's Qualification Act and part of that are the ratios. Part of this bill allows the arbitrator to eliminate those ratios.

We're a compulsory certified trade and we do apprenticeship training. Our ratios are set at 4 to 1, for example, and there's a reason for that. That's to ensure that the apprentices receive the proper training from their mentor and that these apprentices are trained properly around health and safety issues. For example, this bill could go as far as amending it where they could possibly have 10

apprentices to one journeyman. What that says to me is that it's all about cheaper wages for the workers. I have no idea where that came from in this bill but it certainly wasn't proposed by the labour side to put the ratios issue on the table. It's covered under another act and I think this government should leave it alone.

**The Chair:** Mr Moffat, Mr Whynott and Mr Stewart, thank you for taking the time here this morning.

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 1687

**The Chair:** Next is Mr Serge Ayotte, business manager, International Brotherhood of Electrical Workers. Good morning.

**Mr Serge Ayotte:** Good morning, Madam Chairman, Mr Stockwell and the panel. I'm not the business manager, I'm the business rep, organizer, for IBEW Local 1687, northeastern Ontario.

The International Brotherhood of Electrical Workers, IBEW, Local 1687, represents approximately 450 unionized electricians, linemen, apprentices and communication electricians throughout northeastern Ontario.

Bill 69, section 163.5(1), mandatory default hiring provisions—I guess you're going to hear a lot about the mobility issue, the 40%—in my view does a lot of detrimental things. You have lost opportunities. Not only do our journeymen lose in this scenario but also our apprentices. It's a missed opportunity because 40% of the jobs are lost.

Also, as far as northern Ontario is concerned, we would have a workforce coming from outside that wouldn't contribute to paying taxes, buying homes and clothing etc. So for our northern communities it would be a lost monetary opportunity, which impacts on everyone concerned.

Right now in northern Ontario the construction industry is going through a very slow period. We don't have the high employment in the construction industry that you have down south. Right now we wouldn't have a whole bunch of people coming from down south, but once the opportunities down south become less and less and there's less work down there, of course the big contractors are going to come up north. Then the full impact of this mobility issue would be felt in the north. Imagine coming from southern Ontario and bringing 40% of the workforce to this area. How do you think our members would feel? They're being displaced. They feel it's their work, and I agree with them.

We're saying here that, by this bill, 76% will be name-hired. It would cost a lot of jobs to people who are strong union supporters, older members, past and present shop stewards—and don't tell me that contractors have a short memory; they don't; that's a fact—members who've been injured and health and safety activists. We pride ourselves in the unionized industry on having two and a half times fewer accidents and incidents. It's because we have a health and welfare program and people who are trained and people who will voice their opinion. But if



you are working where you have been name-hired and selected, I think you will be handcuffed when it comes to voicing an opinion, because the next time you won't be name-hired. It's a simple fact.

Bill 69, section 163.2, gives employers the right to seek amendments to virtually every section of the collective agreement. How will competitiveness be determined? Is competitiveness another word for less money? That's the way I feel.

It would be very nice if we could share the wealth in this province. We can't all buy \$250,000 houses. We can't all buy \$30,000 or \$40,000 cars. We're not dot-com investors. We're just common people. We're tradesmen trying to make a living. You don't pay into a pension plan. If you're working for \$18 and \$20 an hour, there's no way you buy an RRSP. You don't have a pension plan. You work for 30 years in this trade and what do you have? Broken bones, a sore back, and you're useless now in the eyes of the employer because you're old and decrepit and the young people are going to take your place. There's very little protection.

Going back to the 40% name-hire, we have a health and welfare plan. That's 40% less money going into the health and welfare plan. That will impact our union members down the road, obviously. That's another amount of money that is going to leave our area.

1150

Bill 69 also allows the employer to apply to amend the ratio of apprentices to journeymen employed by the employer. This clause is most likely unlawful as it is in direct conflict with the Apprenticeship and Tradesmen's Qualification Act, which governs ratios. If amendments to the ratios are allowed, it will reduce employment for qualified journeymen, who receive higher wages than apprentices. It will also impact on the quality of work performed and health and safety, as the ratios are in place to ensure the work is performed by skilled and experienced tradesmen who know how to work safely and perform quality work. You're only as good as what you're exposed to, whether you're a hockey player or a construction worker. If you play with the best or you work with best, you benefit the most.

The statisticians predict an ever-increasing shortage of skilled tradesmen—this at a time when the government of the day is waging war on skilled trades. How can we entice the very best of our young people to become tradesmen when the government is lowering pay scales? What would induce them to join a construction force, work like an idiot—work hard, I should say—when you're easily displaced? Why would the brightest minds, the best people, come into this industry? And we need them. The whole industry has changed. We need better educated and better skilled people.

Our trade union selects by means of aptitude tests and oral interviews the very best candidates for entry into our apprenticeship programs. It is by no means a fluke that during the apprenticeship skills competition in Kitchener just last week our union-trained IBEW apprentices gar-

nered the top three places. Why? Because they're exposed to the best, that's why.

The Northern Ontario Joint Apprenticeship Council, NOJAC as it's called, selects, assists and monitors the progress of each apprentice. NOJAC was established in the early 1970s through a joint effort between the Electrical Contractors' Association of Northern Ontario and the International Brotherhood of Electrical Workers, Local 1687. Its object was then, and is today, a dedication to the superior development of electrical apprentices in northern Ontario. That's what they do and they do it well.

Probationary apprentices are schooled in accident prevention and education programs. We don't just grab a young person and throw him on a job site, which has been done in the non-union sector. I see it all the time. They are trained before they go. They are trained also in the use of the green handbook: The Occupational Health and Safety Act and Regulations for Construction Projects. They don't go in there green or they would be subject to injury and all the hazards of construction.

Mr Stockwell has said this competitiveness issue will be revisited in 18 months. This means that once our new collective agreements are in effect, most likely May 1, 2001, the employer groups will be applying for amendments. This process takes 35 days. That leaves approximately four to five months in which we could be working under an amended or revised agreement. Then it will be revisited if the minister hears from the employer groups that it's not working. There is a fear that the minister could gut our collective agreement even further than Bill 69 or, even worse, remove 1(4) from the Ontario Labour Relations Act.

I'll go right to the conclusion. It's a well-known fact that unionized construction workers are the most skilled in their field and hold health and safety in the forefront. They have two and a half times less injury and incidents than their non-union counterparts. Unions have always prided themselves on negotiating better wages, higher standards of living, pensions and benefits for the members. Bill 69 takes away everything that unions have negotiated and worked for since coming into existence. It's not progress. Bill 69 is nothing more than union-busting which will dismantle unions through substandard wages and working conditions. This means more people living in poverty, more on welfare; no health or welfare plans, no pension plans and no more unions.

It is obvious to us that the majority of MPPs who would vote for such legislation have no respect for the work done by a unionized worker. It is also obvious that they don't understand what it is like to work in this type of environment. This government is into tests and testing. We would challenge the MPPs to test their mettle against any of our brothers and sisters. The outcome to me is obvious.

It is easy to legislate measures that impact the livelihood of our unionized brothers and sisters. This legislation does not impact the livelihood of the MPPs; it does ours. Bill 69 is an affront to our union members. There's

nothing constructive about this bill. This government should be taken to task for proposing such an unworthy piece of legislation. There's nothing good about this bill. It is a short-sighted and damaging proposal that will certainly affect current relations that have been established between employer and employee groups.

As a last comment, we would like to quote the honourable Dave Christopherson, the NDP member from Hamilton West: "The reality is that this government loaded up their political gun with a bullet that removes section 1(4) of the Ontario Labour Relations Act which, if that was done, would have the effect of all but eliminating organized labour within the industrial and construction side of our economy.... I don't think for a moment that this is anything that anybody ought to be rejoicing about, when you take that political gun and point it to those labour leaders and say, 'Now, either negotiate lower wages and negotiate other changes, or we're going to fire this bullet that will have the effect of eliminating the labour movement.'" Thank you.

**The Chair:** Thank you, Mr Ayotte. There's about five minutes left for questions. Mr Gill.

**Mr Gill:** Thank you for your presentation. I suppose what you're proposing is the status quo, not to change anything. You think there's no problems in the current situation?

**Mr Ayotte:** There's always a problem in any kind of endeavour that you're in. I don't think this really addresses the problem. I think it's a money grab. I think a tradesman should have the dignity of working for a wage that reflects his capabilities, reflects the amount of training he's had. We have, over the years, set in place a health and welfare system, we have safety on the jobs, we're trained. It's a hazardous occupation. A lot of people are hurt and mangled and killed every year. I personally had a brother working for me years ago who died on the job. Maybe today he wouldn't have died on the job because we have a different system that's more stringent. It's applied. We have people out there who will voice their opinion. By making it more competitive—and when I use the word "competitive," I mean less money—undoubtedly this will change.

**Mr Gill:** You're saying, do nothing, or are you proposing any amendments?

**Mr Ayotte:** I've never really thought of proposing any amendments. I've presented this brief. There are things that could be done. It's a harsh step. There's nothing in it that's done by a small measure. If you're going to correct this, it should be done in small steps. Have the people all work together at it and try to address these differences. Ramrodding a bill like this upsets the labour relations we have with the employees and employer and I don't see the benefit of it. There should be an ongoing talks or whatever to try and sort out our problems. That would be beneficial. But to have something of this magnitude just shoved down our throats is unpalatable.

**Mr Bartolucci:** The reality is that there have been all kinds of amendments proposed. The brief we had earlier this morning had amendments; the Building Trades

Council had amendments. We're going to hear amendments from the carpenters' union in Sudbury, from the sheet metal workers. The reality is we've heard all kinds of amendments over the course of the last three and a half days of public hearings. Certainly, Serge would agree with his own trades council and with the other members of the trades council when we talk about amendments. I think what Serge does, and I want to thank him for it, is he outlines very clearly, very succinctly and very honestly the dilemma faced here in the north. There is a problem.

I only have one question. He referred to the 17.3% of people who live below the poverty line in Sudbury. From a construction worker's point of view, will this increase that percentage or will it decrease that percentage? Will it allow more workers from Sudbury and the north to work or fewer workers from Sudbury and the north to work in a limited working environment?

1200

**Mr Ayotte:** It's very clear to me that of course we will lose some work. I've got members on the list who have been there for a year—good people. In our local, in this geographic area, last year we had 40%, some 200-odd people right in the greater Sudbury district, who were working; the other 60% were working in Windsor, Sarnia, Toronto, Hamilton, wherever, or they were unemployed, or they were working in another province. We already have a fantastic problem, and this adds to that. This mobility clause, 76% actually in name-hiring, adds to that problem. We have many members who have exhausted their EI benefits. That's another really sore point with me. What's the next step, welfare? When there's all kinds of employment for a tradesman, welfare's a possibility. There's something lacking here.

**Mr Bartolucci:** Thanks very much for an excellent presentation, Serge.

**Ms Martel:** Thank you for coming today to make the presentation. I just want to focus on the mobility provisions, if I might. Last week there was an association of electrical contractors before us, and they were of course supporting the mobility provisions. I raised my concern that in this community in particular, with some major construction going on, for example, at the hospital, what would be the likely outcome if contractors were able to bring people from Toronto to come and work on some of those projects and why would I ever want to support something where local people who are going to be asked to financially support that project wouldn't be able to work on it? Their argument was that it was OK because contractors in Sudbury, for example, would be able to go and work in Chalk River and bring 40% of Sudbury workers to Chalk River, so that in the end this would all balance out and people would be able to work regardless and continue to contribute. I just wanted to know if you'd like to comment on the way they have looked at it in terms of trying to justify why it should be supported.

**Mr Ayotte:** They're looking at things on strictly an economic level. We're humans. We have families. We have children. We'd like to be home every now and



again. Construction is hard on married life. My answer to that is, of course people who live in Sudbury and pay taxes in Sudbury would want to work in Sudbury. The opportunity to go and work in Chalk River is fine if there's no other work, but by and large our membership would rather work in Sudbury, live in Sudbury and pay taxes here; raise our children, go golfing, enjoy life here. I've got members who have left for a one-day call in the Soo—one day's employment. They left North Bay and Sudbury and they went to the Soo for one day's work. The cost of going there and accommodation etc, it didn't pay them, but they went. I have members who have gone lately to Windsor from North Bay and Sudbury and the Soo for two days of work. This is the way it is here in our area. Bill 69 would make it worse, a ton worse.

**The Chair:** Thank you for coming, Mr Ayotte.

INTERNATIONAL ASSOCIATION OF  
BRIDGE, STRUCTURAL, ORNAMENTAL  
AND REINFORCING IRON WORKERS  
LOCAL 786

**The Chair:** The next speaker is Mr Jim Lajeunesse, business manager of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers. Hello, Mr Lajeunesse.

**Mr Jim Lajeunesse:** Good morning. My name is Jim Lajeunesse. I'm the business manager of the iron workers' union Local 786 in Sudbury. I thank you for giving me this time to voice my concerns on Bill 69. We share a lot of concerns with our fellow tradespeople, and we have a few of our own.

Our trade is a little unique in a way because Bill 69, some of the amendments or the bill itself, I believe has been part of our collective agreement, especially in regard to hiring and mobility. On the hiring clause, we've had 50-50 hiring since 1973. In fact, at that time we went on strike for it. We didn't like it. It didn't work out too well for a long time because most of our contractors that came in to work in this area came from the Toronto, Hamilton and Windsor area, and they would bring in their key people, supposedly, I guess not realizing that we had good tradespeople in this area as well. It took quite a few years to convince everybody that we do have people here who are capable of doing the job and it was cheaper for them in the long run to hire locally than it was to bring people from out of town.

But to go beyond that, what the bill suggests is going a little bit overboard on the mobility and especially on the hiring end of things, where we would only get a small percentage of people coming off our out-of-work list, and of course there would be people who would never get to see a job site, some of them because of their age. They're not incapable of performing the services; it's just that some contractors prefer a younger person. I think that discriminates. The way we have it set up now, we have an equal opportunity for everybody to go to work. That's our objection to that portion of the bill anyway.

We strongly object to being here. We believe that in northern Ontario we're a little bit different than they are anywhere else in the province because of our geographical makeup and industry. We don't have the turnover of work that you have everywhere else. The way the bill is laid out affects us more than anyone else. In my opinion, it's an offer we can't refuse, the way it's presented to us, and we don't dare to because of the alternative. The government's threat to remove section 1(4) from the construction industry drove us to a point where the government is calling it a compromise bill that only addresses unions and union contractors and it doesn't apply to non-union in the same respect. There are rules for us and there are no rules for them.

I don't know if you're aware of the playing field here in this area that you supposedly addressed; I don't think you have, because a non-union contractor has the opportunity of obtaining our collective agreements. Our wage rates, travel conditions and board money are all laid out in there, and it is very easy for these people to obtain a copy of this. They can go into any job site and successfully keep under our rates at any given time. What the ministry is suggesting in regard to the even playing field is almost like a gas war: There's no end in sight to it. We were suggesting that if we had an opportunity to know what the other guy was bidding on work, we would have an equal opportunity to fight back. But the bill doesn't help us in any way because it doesn't restrict the non-union guy in any shape or form. That's one of the points we wanted to make clear.

**1210**

We don't believe the government is going to win any friends with this bill. It's certainly not something that we are looking forward to, because of the situation we're in in this area, especially with guys coming in from out of town and taking our jobs. If you talk about mobility and take Sudbury, for example, it's a free zone in the area that I service. Contractors are not required to pay room, board and travel here, so we don't get too much of a problem here. But when you get in areas like Timmins and Wawa or any other area that's full board zone, then contractors will be bringing in people from out of town because he has to pay board money in most cases. I have good tradespeople in every area of this province I service, and I believe the bill will jeopardize their well-being in that respect. Like I said, they'll bring in their friends and everybody else. I'll have good tradespeople sitting at home and some guy from who knows where will be doing the job that the local guy is quite capable of doing. The fellows from the other areas of the province don't pay taxes there, don't buy anything there other than just lodging, and then they're gone on the weekends, and they don't add anything to the community.

The type of mobility we have with our contractors is in our collective agreement with the OEA. The ironworkers, like I said, have lived with this for some time, and I know it's not shared by the other trades. It will probably affect other tradespeople more than us, because they don't have anything at all in their agreements.

That's 100% for them, not 50-50—well, not 100%, but darn close to it—from where they're sitting today.

In regard to an arbitrator coming in to suggest what we should be compromising for, to give a contractor an even playing field for successful bidding, we'd like to make sure that there's an arbitrator in place who fully understands our situation, and we'd like to have the opportunity of jointly making the choice of who that should be.

We endorse proposals to the act that were proposed by the sheet metal workers. I think they proposed them at one of your meetings in Toronto. It's lengthy, and I don't know if you want me to go through them all or not, but I'm sure you know what I'm talking about. It's very much in line with our way of thinking, and we support them on their proposals to amend the act.

That's about all I have to say about Bill 69.

**The Chair:** Thank you, Mr Lajeunesse.

**Mr Bartolucci:** Thanks, Jim, for your presentation. You are unique in your trade in that you have this 50-50 which you've negotiated. Do you want to expand on that just a little bit? The contractor has the opportunity to name 50% of the workforce and the other 50% is hiring hall, correct?

**Mr Lajeunesse:** Yes.

**Mr Bartolucci:** OK. Has the 50-50 balance caused any problems with safety in the workplace, from your trade's perspective?

**Mr Lajeunesse:** No, not really, because on the 50-50 we have trades people coming in from other areas. In that respect, we have no concerns on safety. When these people come and work in our area, we have indoctrinations and everything that they have to take before they're even allowed on site, so I don't think safety is a concern in that respect, but it might be with respect to compromising wages to get jobs. It hurts all around.

I always maintained that we live in a false economy here in northern Ontario, because if you take a fellow who's making a living today, how can you honest-to-God go out and buy yourself a house and a car and send kids to school? We're not gypsies. We don't live in covered wagons. We can't move all over the province at the drop of a hat. In some cases where there's a lengthy job, we can do that, but it's hard to make a living like that. When you go on a job, you don't know how long you're going to be there. You might be hired for a six-month job and might end up being there two or three weeks, maybe a month, maybe two months. How can you seriously say that you can plan ahead with a future like that?

With the bill bringing down our wages and everything—what they're suggesting we do—that's going to make matters even worse.

Right now, our trade is very physically demanding. Most of our people when they get up in the late 50s and 60s are pretty well worn out or getting close to it anyway; some of us are in better shape than others, but the majority. We depend big time on our pensions. We have a good pension plan, but we pay into it, we negotiated it. I hate to see this being jeopardized in any way, shape or form.

**Mr Bartolucci:** And you make sure that in that 50%, the worker over the age of 50, the older worker, the worker who may have a bit of a sore back or a sore knee etc, gets work because they go through.

**Mr Lajeunesse:** That's right. But we don't place a person out of that 50% if he's not capable of the job. Our contract demands that we send capable people who can do the job that's asked for.

**Mr Bartolucci:** I have one final, very quick question, Madam Chair.

I think you've outlined, as did Serge and Tom, very well the economic realities in northern Ontario. Our economy and our base is very much different than southern Ontario. We are, as far as I'm concerned, depressed from an economic point of view. In the construction industry, will Bill 69, the way it's written now, accelerate this economy or depress it even further? In your opinion only; that's all I'm asking, Jim.

**Mr Lajeunesse:** As far as I'm concerned, it wouldn't accelerate it or depress it; it would just hurt the people who are involved in it. I'm sure whatever comes out Bill 69 isn't going to pick up Algoma Steel or promote anything like that, but it's certainly going to have an impact on the workforce that's going into these places to repair and revamp and build like we have in the past. Right now we have a terrible problem with non-union. I was hoping that this bill would address some of the non-union as well as the union side of things.

**Mr Bartolucci:** Terrific. Thanks very much for your presentation and for answering the questions, Jim.

**Ms Martel:** Thank you, Jim, for being here today to make the presentation. Let me ask you a couple of questions. I want to pick up from what's already in your collective agreement about the name-hiring at 50%. I'm just curious, has the union ever done tracking of how that actually works? What I mean by that is, have you looked over a number of years to see who may be repeatedly used by the employer and who may not be used or may be looked over so that the union has to use its 50% always to bring to the top people who would continuously be looked over? Is there any kind of pattern there? Have you tracked it at all to see how it works in that sense?

**Mr Lajeunesse:** Not really. Like I said, we had an earlier problem with it. In the early years, we went on strike for it, and then we had to accept it because it was more or less shoved down our throats. But we learned to live with it. We have good apprenticeship schools now, we've got good tradespeople here in the north, and we try to provide the contractor with the people he needs so that he doesn't have to bring anybody else in.

It hasn't been a big problem for me, so to speak, but I do get the odd time where, like I said, you get a contractor who's got his steady-Eddies or favourites and he wants to bring them along, and there's nothing you can do about. Our people grumble and they're mad for the simple reason that they're home here and they don't like somebody else coming in and taking a job that they thought they might be entitled to. They're perfectly



capable of performing the same service. Like I said, we've got very well qualified people here.

**Ms Martel:** Tell me, do you have any form of stabilization funding, as was earlier referenced by some of your brothers?

**Mr Lajeunesse:** No, we don't. We have an enabling clause in our agreement. We've used it. We have no problems with our contractors. Every time anybody has ever asked for some compromise, we've obliged them, within a reasonable figure. We have been successful in some cases, and in some cases the rates were so different that we couldn't entertain them. You get to a point where the \$18 and \$20 dip on rates is a little bit too much.

1220

**Ms Martel:** So the enabling clause is right in your collective agreement?

**Mr Lajeunesse:** Yes, it is, and we do use it.

**Ms Martel:** I was just unclear about the area you service, because you mentioned that you don't see some problems here that you might see in Timmins etc.

**Mr Lajeunesse:** I service Timmins. I service from here to the Quebec border, north to just beyond Hearst, across to White River, Sault Ste Marie, right straight through to Sudbury and all the district of Parry Sound.

**Ms Martel:** The final question: You talked about people coming in from outside. You used the word "indoctrination," before they get on site. I was just curious, do you run health and safety programs before they actually get on the site? What efforts do you make before that happens?

**Mr Lajeunesse:** NORCAT has something in place that Inco and Falconbridge have instituted. These people here, before they set foot on their property, have to take safety orientation. Of course, there are new orientations for foremen and everybody else now. If you haven't taken any courses, you can't supervise people.

**Ms Martel:** OK, thank you.

**Hon Mr Stockwell:** I've got to tell you that we looked carefully at your collective agreement and found it extremely interesting and also a little bit more progressive in our minds. The enabling clause is in there now. The mobility issue is also in there.

What about the reverse mobility? I heard from some Toronto contractors etc, "Look, yeah, there are some outgoing workers from Toronto, but there are also outgoing workers from Sudbury, the Soo, Windsor, who go to work in Toronto because the employer starts work in Sudbury." Have you seen that?

**Mr Lajeunesse:** Very, very little. We don't have too many contractors who are successful in getting work in southern Ontario. In most cases, if you get somebody from Sudbury or Sault Ste Marie or the area I service, it's because of a shortage of people. They put a call into our local hall. We are an international union and they do call for qualified people from here.

**Hon Mr Stockwell:** What about southwestern Ontario or eastern Ontario? They do some work there, though, I understand.

**Mr Lajeunesse:** Southwestern Ontario?

**Hon Mr Stockwell:** Yes.

**Mr Lajeunesse:** That would be—

**Hon Mr Stockwell:** I don't know. London, Windsor.

**Mr Lajeunesse:** London? Like I said, we've got a few small erection companies that might travel around a bit. To tell you the truth, I can't recall too many of our members going down there to work. They usually hire people from there.

**Hon Mr Stockwell:** What about the enabling clause? Obviously it took some time to work out. Would you consider it to be a work in progress but functioning today?

**Mr Lajeunesse:** The only problem with the enabling clause is, like I said earlier, it's like a damn gas war. You lower your rates; they lower theirs. There are restrictions on us but there are no restrictions on them. We feel that if they had a bottom, we could work towards that, but there's no bottom to them. I don't know if we'd end up working for nothing just trying to outdo each other. It would probably boil down to that.

**Hon Mr Stockwell:** I guess the last question is, is there more work because of that opportunity, because of the enabling clause and the mobility?

**Mr Lajeunesse:** It has created a little bit, Chris, but like I said, as soon as they get on to what you're doing, they just lower their rates and there's no limitation to what they can do.

**Hon Mr Stockwell:** OK, thanks.

**The Chair:** Thank you very much, Mr Lajeunesse.

#### UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL 2486

#### PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

**The Chair:** The next two presenters, committee, have asked to present together and combine into 40 minutes. We have Mr Tom Cardinal, business representative of the United Brotherhood of Carpenters, Local 2486, and Mr Pat Dillon, business manager and secretary-treasurer of the Provincial Building and Construction Trades Council. Good afternoon, gentlemen.

**Mr Tom Cardinal:** Good afternoon, ladies and gentlemen. My name is Tom Cardinal. I'm an organizer-business representative for local 2486 of the carpenters' union in Sudbury. We represent 430 skilled carpenters, drywallers, floor layers and pile drivers in northeastern Ontario.

The carpenters' union's view on Bill 69 as an alternative to the proposal made by certain employers for repealing or weakening section 1(4) of the Labour Relations Act: Bill 69 reflects an industry-based approach by addressing the competitive issues needed by certain employers. However, while we do not oppose the general direction of Bill 69, we believe the bill requires amendments. Our brief outlines the amendments we believe should be made to Bill 69.

We would welcome any questions at this time instead of going through the whole submission. I think it's a thing you're probably going to see on and on, day after day.

Local 2486's main issue, if we can put it to one issue, is mobility and name-hiring. I think it will be a devastating issue to northern Ontario carpenters who are currently unemployed to be further unemployed by way of bringing other construction workers into the northern Ontario district.

At this time I'd like to turn to Mr Dillon.

**Mr Patrick Dillon:** Thank you. I'm Patrick Dillon, business manager and secretary-treasurer of the Provincial Building and Construction Trades Council of Ontario, representing 100,000 unionized construction workers in the province.

Before I get into making my comments, I will identify right at the outset that there are a couple of the unions that are members of the provincial building trades that we do not represent here with our views. One has already presented, the sheet metal and roofers' conference and their local unions throughout Ontario, although we do represent the sheet metal local out of Toronto on the residential. Also, the boilermakers in Ontario are opposed to Bill 69, as are the millwrights. I want to state that upfront so that I'm not accused of speaking on behalf of those local unions.

I'd like to set the stage a little bit for everyone here on how Bill 69 came about and where it really got started. It started back three and a half years ago with eight general contractors who had a competitive problem, so to speak, because of the Toronto working agreement being expanded to the province of Ontario for them for all trades. I say that because at that time it was eight general contractors. Today it's eight general contractors that I think are sort of the key hidden group, but they've been joined by some other contractor associations; not all. This meant that employers bring to the table that there's been this outrageous competitive disadvantage or that there is an imbalance in the bargaining structure in the province of Ontario. That is not where this issue started.

Out of that discussion back three and a half years ago, we ended up with Bill 31, which was a benefit to the poor people in the petrochemical industry, the banks and Wal-Mart. I notice that the minister was kind of laughing at the "poor people in the petrochemical industry." Looking at the price of gas as I drove into Sudbury, it's hard to see how they end up being the poor sisters at the table. But anyway, we ended up with Bill 31. Then we had the election again in 1999. Subsequent to the election and not long after that, we found floating around our industry a brief that was done by a number of unnamed contractors at that point making an economic argument as to why 1(4) should be removed from the Ontario Labour Relations Act.

I guess that group of contractors, whoever they were, must have got some advice that they could never sustain an argument on the economics of 1(4), so they changed. That brief went by the wayside. Another brief showed up

called the Coalition for Fair Labour Laws. When you read the front page, you would think that should be the building trades unions making a case for a Coalition for Fair Labour Laws, but when you turned the first page, with the direction that brief was going in, you'd be pretty quick to see that it certainly wasn't coming from the building trades.

But to set the stage for how we got to where we're at with Bill 69, after reading the two different briefs that were out there from the employers, I had a discussion with Minister Stockwell, on the direction of our executive board of the provincial building trades, that if the government was looking at paying much attention to these briefs, the building trades would prefer to negotiate an industry solution to the problems rather than have a legislated solution. That's been the history of labour relations for many years, particularly for construction, except for Bill 31.

#### 1230

To make a long story short, Minister Stockwell appointed a committee of six labour and six management reps to have an industry discussion. At the first meeting, he addressed us and told us that, first off, he believed there were some competitive problems in the construction industry that needed to be addressed. He also stated that he would prefer an industry-negotiated solution rather than a legislated solution himself. The labour people should go to the table clearly understanding that negotiating the status quo would not get the day. The fourth point was that the employers should not go to the table and stick to their position on 1(4) because there was a good chance that it would not be delivered to them, but that we should all go to the table with it clearly in mind that the government would act if we did not come to some resolution on the competitive issues.

As I stated a little earlier, a shocking thing for me at the table was to hear employers talking about the imbalance in the bargaining structure in Ontario. Mr Lineham, on behalf of the IBEW CCO, pointed that out this morning about their relationship with the Electrical Contractors Association of Ontario, where they actually advertise about their great bargaining relationship, yet we're sitting across the table from them and they're talking about this great imbalance in the bargaining structure. So I certainly have some problems with that.

I'd like to emphasize to the committee also the uniqueness of construction. At the end of the hearing process, before you make recommendations to go forward for change, I would ask the committee that you clearly understand the impact of those changes for our industry. Our industry is unique. For people who go to work in the steel mill or as school teachers or as government people, your workplace does not change. The issues change but the workplace does not change. Construction changes on an hourly basis. If we have 300 construction workers working on a building this size, an hour from now the building will not look the same as it did an hour ago. It is totally different than other workplaces that you deal with as politicians, so I ask you that we clearly understand



what those changes are and that we take the time to make the necessary changes.

Getting to the brief itself, the building trades—set aside some of the trades that are opposed to it—are in support of Bill 69, but it needs to be amended. The statement that we're in support of Bill 69 is with the caveat that it has to have amendments. Simply put, it would not work as is for the industry, for either side of the table, as I would understand it.

I'd like to run through some of the recommendations. First off, on the proposed changes to section 1(4), the single employer, and the section 69 successor employer recommendations, the board should not make a single or successor employer declaration solely on the basis of a family relationship, but the board should be permitted to take family relationships into account. They can't disregard it. I'll use Mr Smith. If Jeff Smith's brother starts up a company tomorrow, the board should be able to look at the fact that he's Jeff Smith's brother as one of the factors but it should not be used as the only factor to decide the case whether it's a related employer or not.

In the residential sector in Toronto we've got some recommendations:

The geographic application should apply to the city of Toronto and the regional municipalities of Durham, Halton, Peel and York, as well as Simcoe county. Thus it would include board areas 8, 9, 10, 11 and 18.

The strike lockout window should be extended to 75 days.

On mutual agreement of the parties, they can request arbitration any time during the May 1 to June 15 period. Either party should be able to request arbitration on or after June 15 regardless of when a strike or lockout would have been lawful.

Notice to bargain should be given 120 days prior to April 30.

The Ministry of Labour should host forums to address the industry's concerns.

Amend section 150.2 to give arbitrators similar powers under section 48(12) of the act.

The only comment I can make on the residential sector is to say that the Toronto building trades and the Toronto unions were at the table with the developers, the residential contractors and the Ministry of Labour. I was not at the table so I cannot speak with great expertise on their recommendations, but we have endorsed their recommendations.

Back to the ICI, one problem area I find, among a number of them, is the designated regional employer organization. Only an employer bargaining agency or a designated regional employer organization appointed by the employer bargaining agency should be entitled to apply for local amendments to a provincial agreement and to have the right to make applications for arbitrations and submissions under sections 163.2 and 163.4. There should only be one designated regional employer organization for a geographic area.

Another subject matter of the proposed amendments is to remove reference to benefits in 163.2(4):

"The application may seek only amendments that concern the following matters:

"1. Wages, including overtime pay and shift differentials...

"5. Requirements respecting the ratio of apprentices to journeymen employed by an employer," subject to the Apprenticeship and Tradesmen's Qualification Act thereto.

On point number one, the wage package, overtime and shift differential, the change there is to take the word "benefits" out of the act as is existing in the proposed act now. There are a number of reasons for that, and most of the unions will speak to that. Whatever the wage rate, even using enabling clauses that local unions use now, they enable the wage package, but the benefits package remains as is no matter what work they are working on. There are quite a number of reasons for that. First off, costs of benefits for health and welfare, dental, those kinds of things, remain static no matter what wage the worker is working at, and the costs to the plan remain the same. The same thing with pensions. You heard Mr Lajeunesse say that the ironworkers have a decent pension plan for their people as they get up to certain ages, which I am quickly approaching. The cost of that pension, so that the pension will be there, has to remain static during the person's work life.

I think there is also some major benefit to that from the employer organizations. I don't want to be seen as speaking on behalf of the employers, but I know from being a business manager in a local union over the years that getting changes made to the collective agreement was always a pain for the employer: problems for them in their office, their accounting. If you have people working under the same collective agreement at three different jobs in Sudbury, at three different rates—one may be in schools, one may be in hospitals and one may be in the mines—the employer does not want to have a whole list of different benefit package rates, because those employees from time to time may move from one job to the other. So there's good reason why it should be the wage package.

**1240**

The definition of "market" as described in the act is "The market in which it"—I guess that's the work—"is performed, which could be work performed for all of the industrial, commercial and institutional sector or a specified market in it."

The problems with the current drafting of section 163.2(1):

The stated purpose of Bill 69 is to facilitate local modifications to provincial agreements that will enable unionized contractors to successfully bid for work that they purportedly have not been able to secure under the current terms of their provincial agreement. Clearly unionized contractors do not require modifications to provincial agreements to secure work for which they are already successfully bidding. Consequently, the way in which "market" is defined in Bill 69 is far too broad. The definition in Bill 69 could include work that is already



being done by unionized contractors. To allow wage reductions on such work is clearly unreasonable.

To make the procedures in Bill 69 both effective and fair to all concerned requires a more precise definition of "market." Our recommendation is:

"The market in which it is performed which will be a specific segment of the industrial, commercial or institutional sector which cannot include work which historically has been performed by members of the affiliated bargaining agent."

That's our recommendation on "market," as to how that should apply to the new act.

The legal test at arbitration for modifications to a provincial agreement in section 163.3(32) and elsewhere: The word "significant" should be inserted before the phrase "competitive disadvantage" in section 163.2(32).

I'd just like to make a comment on that. We had some discussion about that during our discussions and it was my understanding that "significant" would be part of the act, along with "competitive disadvantage." I was told you were having some difficulty defining what the word "significant" meant, that you would have to have that defined in the act. Well, there's no definition in the act for "disadvantage." As a matter of fact, as we have looked through courts and statutory tribunals, we haven't found where "disadvantage" has been defined, but the word "significant" has. So I ask you to look at pages 14 and 15 of our brief. It gives a few areas where the word "significant" has been defined: in the dictionary, obviously; in labour board cases; in Workers' Compensation Board cases; and in Court of Queen's Bench cases. So I think there's some definition there that can be used.

I think "significant" is something that helps people and would help an arbitrator decide—any employer could come forward, could actually go to the owner and say, "Invite some non-union guy to put his name on the list here so that I can make an argument that I can't be competitive." The non-union guy could maybe not perform the work but the owner and the employer could use the non-union name on there to show that the union is not competitive. Why? Because the union rate is \$30 an hour and the non-union rate is \$18. Maybe he couldn't perform the work, but they would use it. So we need the word "significant" in there and it's of major importance to us.

On the referral to arbitration and the arbitration process itself, this system cannot work unless we have the designated regional employer organization thing straightened out. It cannot work unless there is a mechanism. It should start with the employer identifying the market he or she is uncompetitive in. The union would have seven days to respond to what the employer has said he's uncompetitive in. Maybe at that point the union wouldn't even need an arbitrator, but you should have an arbitrator just in case the two can't agree. But we'll say they didn't agree; the arbitrator at seven days would take the employer's evidence and the union's evidence and say, "The employer has a significant disadvantage here." Then the union and the employer have 14 days between

the two of them to negotiate a local settlement for that work. If at the end of that negotiation they haven't come to agreement, each organization should share with the other person their final position and then it goes to the arbitrator. The reason they share that final position is twofold: one, the arbitrator is going to be dealing with the exact same issues as both the employer and the employee bargaining agent were. He doesn't get some totally different response from either one of them. The two of them see what the other person's position is before it goes to the selector. It also puts pressure on the two of them to make a deal because they really don't know which one the selector is going to choose, so they're more apt to make a deal, and I think that is in everybody's best interests, that the industry resolve those differences.

The other issue along the same lines is that the way the act is written right now, there could be a multitude of final offers, and surely that is not the intent. It just can't work. Both parties will come to the table with a list of positions, and in our view, it should be that the two parties at the end of the discussion each have one position.

On the panel of arbitrators, we recommend that a new section of Bill 69 be provided that says that within 30 days following the proclamation of Bill 69, employer and employee bargaining agencies will meet to agree upon a panel of arbitrators to arbitrate applications under section 163 of the bill. The chair of the Ontario Labour Relations Board should be allowed to specify the number of arbitrators required. The chair of the Ontario Labour Relations Board would also make the appointments to fill those seats on the panel that the parties do not fill by mutual agreement. The obvious recommendation there—take the bricklayer as an example, seeing that Mr Bartolucci used to be a bricklayer—is that the bricklayer and the bricklayer employer organization should sit down and agree on a list of arbitrators. If they can't come to agreement, the labour board chair would fill the number they didn't agree on. Say it was set at six and the employers and the union agreed on four; the labour relations board chair would appoint the other two. We think that would work.

A new section: duration of local amendments to provincial agreements and adjudication of disputes arising under local amendments. We're recommending that local amendments to provincial agreements would apply only for the balance of the term of the provincial agreement. If there are two years left in the provincial agreement, the employers and the union go through an exercise to target schools in Hamilton or wherever it is for labour work, then that agreement they arrived at through the final offer selector or by mutual agreement would last up to the end of that term, unless mutually agreed by the parties that it be extended. That is one of the keys about local negotiations out of the hands of the arbitrator. There would be a benefit there for the employer and the union. If they wanted to extend it past the expiry date, that would be up to them. But if it has to be done through the



selector, then it should end with the term. That's the way we had the discussion with the ministry. That was our suggestion when we put forward the enabling provisions. 1250

The default provisions in hiring, the 40% mobility and 60% name-hire: We see that those should be maximum percentages that cannot be exceeded at any time. The mobility provisions should be clarified so that only current employees can be transferred from outside a geographic area, and the legislation should clarify that any employees not hired under the mobility and name-hire provisions would continue to be hired as before, under the provisions of the provincial agreement in the normal hiring hall procedures. We also suggest that the 60% name-hire entitlement for an employer should be changed to 50%.

We say that for a number of reasons. First off, 60%, in my view, is not a number that's used in our industry on anything other than Bill 31, where you have 60% to make a collective agreement. That's the last time I'll mention Bill 31. The 60% on the hiring hall provisions will fly in the face, in every case, of every procedure that applies in our industry now. Of our unions in Ontario, some have no name-hire and some have 100%, but the majority have 50%. I don't think the employers' association can give much of an argument as to why it should move from 50% to 60%. As a matter of fact, I can give a hell of an argument as to why it should be at 50%. First off, the procedures are in place. Those employers and those unions have used them for years without complaint. We've heard some anxiety, and I understand the anxiety, from unions that don't have the name-hire provisions now, but for the unions at 50%, why would we change it without any real rationale for that change? I would suggest very strongly that you take a look at that.

The next section we have a real problem with is section 163.6, which calls for the ministerial review in 18 months' time. In our view, that is just a recipe for employers to make sure this mechanism doesn't work so they can come back to the table six months or whatever after the next round of bargaining and apply to the government that this mechanism isn't working. We went through a lot of anxiety, a lot of difficulties with different parties to try and get to where we're at. If we get a mechanism put in there—the minister can review at any time, and we understand that, but if it's put in the act that the minister has a review in 18 months, I believe employers will use that to not work at making the system work, and this whole thing is about putting the parties together and making the system work.

I will cut off there simply by saying that if the government acts on our amendments and the industry partners commit to work together on market competitiveness, Bill 69 will work. Fair labour legislation is evolutionary, not revolutionary. With those comments, we're open for questions.

I guess the final comment I would make is that Tom and I are sharing the time. I heard Tom's comments about the mobility and hiring and I respect his position

on it. So when I am answering any questions along that line I will answer from the brief side, but I think Tom should be allowed to answer them too from his own perspective.

**The Chair:** No problem, Mr Dillon. We have questions—

**Mr Dillon:** Madam Chair, can I just make one more comment? There's something I've overlooked here, and it bothers me deeply. It goes right back to the comment about the ministerial review in 18 months. I have here the document that was submitted by the electrical contractors in Toronto, but the same remark was made by the Ontario General Contractors Association. It reads, "The ECAO does support the government and its current legislative initiative as a first step in the direction of enhancing the competitiveness of the unionized construction industry." That statement bothers me very deeply and it bothers our affiliates deeply, that somehow these people already believe—and I think it's because of the 18-month mechanism being there—that this is the first step. I want to make it very clear that the building trades see this as the very last step and that we are committed to making the act work so our employers are competitive in the industry, but we don't want them to look at this as just a shopping list, one step along the way to their ultimate goal, which was 1(4) at one point. No more comments.

**The Chair:** Thank you, Mr Dillon. We have about seven or eight minutes for questions.

**Ms Martel:** Let me just pick up on the ministerial review and flip it around the other way. If it's not working in 18 months, where is the forum for the unions to come forward to say it's not working? I'm not saying I'm wedded one way or the other to this, but I see where you're heading and I'm wondering, from the other point of view, if it's not working and unionized workers have something to say, where do they get to have that say?

**Mr Dillon:** We've discussed that a little bit. We think that if the amendments are made to the act, there'd be little chance that the union would be coming forward with those kinds of complaints. If both parties go to the table to try and make this work, we should not have that. But we had to look at it in balance: Who is more apt to be coming forward in 18 months with complaints about Bill 69? We don't believe it's going to be the unions, so we'd like the thing taken out. If we have problems, we know where the minister's office is and we know where both opposition parties' offices are. We would come forward with issues that have arisen under Bill 69 and ask that we try and get the government to move to make those changes. But I don't think we need something in the act that says the minister is going to review it, because I think the employers see it as more of an opportunity than we do.

**Ms Martel:** I'm considering, for example, the mobility provisions, which Mr Cardinal might want to respond to in terms of his concerns. We go through this process and discover that in fact employers are moving 40% of their people around the place, and in many communities local workers who have a stake in that community, who

pay taxes there and are probably being asked to contribute to fundraise for some of those very projects that other people are working on—we find that people in a lot of communities just aren't getting work. Surely that's an issue you'd want to have some forum to bring forward to. You can go to the minister; there's no guarantee he's going to do anything about it. I don't say that personally to the minister, who's here, but sure, you can always go to the minister with all kinds of things; whether or not anything happens is a different story. The review may allow for both sides to have an opportunity to have their say. Maybe, Mr Cardinal, you can respond with respect to concerns about mobility, for example. What happens if 18 months from now what you discover is that people in a lot of communities just aren't working?

**Mr Cardinal:** Northern Ontario has had little to no construction at all in the last five years. At this time we're starting to see light at the end of the tunnel, that there's going to be some construction, some work for our people in this area. If the mobility issue stays the way it is and the name-hiring provision, we believe that those people who are now unemployed will further be unemployed. The people who are on unemployment insurance at this time will run out of unemployment insurance and be put on the workfare list. It seems that the Sudbury region has adopted the workfare situation very well and does not give the opportunity to carpenters in the region to actually go out and make a salary, a wage, and earn a decent living. Bringing in individuals from other communities such as Toronto and southeastern and southwestern Ontario will just further devastate that carpenter. He's not going to have a chance to go out to earn a living. He's not going to have a chance to go out and put food on the table for his children. He'll be sitting at the gate, watching a northern Ontario carpenter coming in to work, bottom line.

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**Ms Martel:** So if you had your choice, the provision wouldn't be changed at all.

**Mr Cardinal:** That's right.

**Hon Mr Stockwell:** Thanks for the presentation. I appreciate the work and the effort that was put into it.

A couple of quick points: On the first step thing, the 18-month review, I don't see this as a first step. I hopefully see this as a last step, that in fact this thing gets adopted and people go to the table and make it work and work well. I want to be clear about that. The review is there because I don't think we could ever write a perfect piece of legislation. We may have to tweak it or make some adjustments that may be acceptable to both sides. But the idea isn't simply to say, "Hey, this is just a first stage and the second stage is abolition." So I want to go on the record. I don't know what the generals are saying and I don't know what the unions are saying, but I know what I'm saying.

I want to just ask you, Pat—you were at the negotiating table through this whole process. I've been accused on a number of occasions by Mr Christopherson—he's not here and I don't mean to disparage him when he's not

here—of putting a gun to the head of the unions. As I recall that first meeting when it took place, I could be accused of putting a gun to the head but I guess my thought was, I was putting a gun to everybody's head, in essence. I basically told the employers that section 1(4) was out and I told you guys that the status quo wasn't on and something has to be found in the middle. I always took the position that you guys can work an industry-based solution or you can have me write it, but if you get me to write it, you're both going to hate it. Is that a fair analysis of what took place?

**Mr Dillon:** That's a fair analysis and I think that's kind of what I said in my opening remarks about what took place at the first meeting. Yes, I would agree that's how we started out.

A problem the unions had through the process as we negotiated, and not coming from your office, is that we were getting feedback almost on a daily basis of employers going to other members of the caucus, employers going to the Premier's office and employers going to different cabinet ministers lobbying for 1(4). We never really knew for sure what the playing field was, other than we were told at the start that the status quo was not going to be the resolution to this from labour's standpoint.

We knew that government was going to act. My mandate was twofold: one, that we negotiate an industry solution and, two, that we stay away from any form of double-breasting. That was the mandate I went forward with and went through the process with.

**Hon Mr Stockwell:** I hear a lot of this name-hiring stuff and enabling stuff and mobility stuff that's crushing the other unions. But, you know, Pat, I've read a lot of the collective agreements and in this province they are included in a lot of collective agreements, yet those unions don't seem to be suffering what I would classify as the travails and pitfalls that are being offered out there as the potential downside to this piece of legislation. There seems to be active evidence out there that these things are in place and the sky hasn't fallen and the province hasn't slipped into the lake.

**The Chair:** Could you give about a 10-second response to that?

**Mr Dillon:** The enabling provisions are in collective agreements and have been for 10 to 12 years, and maybe longer in some. The problem has been that employers are complaining to the government that in some areas those enabling clauses are used and in some areas they're not, that the unions won't capitulate—if you want to use that word—to whatever their demands are, so they weren't foreign to us going to the table. We know the spirit in which they were put in the collective agreement, that we do have some competitive problems in different areas and so we should be using them. The union had to come forward with a position that offset the employers' position of 1(4), and we came forward with the enabling clause as the solution and we think it'll work.

On the name-hire and mobility, there are differences. Obviously, you've heard Tom, and I respect Tom's posi-



tion. The fact is, though, that there are locals in the province that are provincial in scope that have 100% mobility.

**Hon Mr Stockwell:** Ironworkers.

**Mr Dillon:** No, the ironworkers aren't one. The ironworkers have five locals and they have 40% mobility. But the operating engineers have 100%, and there may be others, and the same on the name-hire. There are locals that have zero. The IBEW would be one of them. I think the carpenters are pretty close to that. Then you've got areas like the pipefitters, who have a variation that goes maybe from zero to 50% to 100% name-hire. Then you have the ironworkers, which is 40% mobility, 50% hiring hall. So it differs.

But I want to say, on behalf of all those unions that have 100% or 50% or whatever, and I say this with all due respect to comments that were made by different people here, that those people do have safety people and those people do have stewards and they have proud traditions in their area, the same as we all do. There's anxiety around that and I respect that, but it will be time that tells what impact this has.

**The Chair:** Mr Bartolucci, just very quickly, please?

**Mr Bartolucci:** Yes, thanks. Probably two questions like everyone else. Is that OK, Madam Chair?

**The Chair:** Yes.

**Mr Bartolucci:** First of all, just a little comment. I'm disappointed that guns had to be pointed at anybody's heads, regardless of the side, when there was a solution in 1997 that a certain group walked away from. I think we should always remember that the industry had its solution, it found it in 1997, and a particular group of contractors chose not to accept it.

Second, I'm glad the minister is so close to me because I want him to clearly understand that, as far as I am concerned, we will be putting forth an amendment to get rid of the 18-month review. If the legislation can't stand the test of time, then it's lousy legislation. In fact, the government has the opportunity to review its legislation at any time, so I'm glad the minister said here, he's put it on the record, that the legislation isn't perfect, and maybe this is one aspect that needs some modification. The best modification with regard to 163.6 is its complete withdrawal, and I will be putting forth an amendment to that effect.

You mentioned so many good points, Pat, we don't have time for. The arbitration lists: Honestly, it doesn't make any sense to me that the Lieutenant Governor should be fooling around with those. She's a nice person, but I think the Minister of Labour and the Ontario Labour Relations Board understand that a whole lot more.

"Significant" is an important word and it can be defined. "Wage package," I'm glad that's a modification or an amendment you're making.

You know, the minister referred to me as a bricklayer before. I learned the trade, but there are people I worked with in the construction industry here who would say I was a better labourer than a bricklayer.

But I've got to tell you, I don't know why they would buy into the enabling legislation. Can you explain that to

me, just a little bit more carefully? You said you didn't represent some people but you represented others. Did all your partners buy into that too?

This is a personal opinion: Because I'm from the north, I agree with everything that every other presenter has said. You know that, because we've talked in the past. Can you just expand on those things?

**Mr Dillon:** On the enabling provision?

**Mr Bartolucci:** Yes.

**Mr Dillon:** I guess the first comment I would make is that, yes, the deal that was on the table in 1997 should have been hammered at those people at that time. As a matter of fact, some of those same people are heading up the lobby, and according to them, their issues haven't been addressed in this bill. I could make an argument to that, but that's not what you're asking me.

On the enabling provisions, they are in collective agreements now. We were told at the start that the status quo was not going to make the day. We know now, the government has told us, that they're going to act. He hasn't indicated how he's going to act, but we know he's going to act on the competitive issue.

We had enabling clauses in our agreement so the bargaining agents got together and agreed that we would put that in legislation. That way, it isn't optional in one local area or one trade or another to use it. What's happened is that locals in some trades will use the enabling clauses that they have in their collective agreement in some areas and yet you go to another area and they haven't used it. That creates employers in that particular area screaming that they can't be competitive. Now, that's their screaming.

We had to put something on the table. The employers' position was clear: It's 1(4) or some form of double-breasting. But we knew what that meant from a health and safety perspective, from a wage perspective: The unions would barely exist in the province of Ontario. Obviously, we didn't want to go there. What was something that we could put on the table—in negotiations, that's what it's about, you've got to put a position on the table—something that would maybe tweak the employers' attention, but certainly tweak the minister's attention? We put the enabling clause on the table.

**The Chair:** Thank you, Mr Dillon and Mr Cardinal, for your time. Members of committee, I believe it's agreed that we will vary the order of business to allow Mr Ron Laforest, business manager, to speak next, and then we will take a 20-minute recess for lunch. If Mr Bryant, Mr Burton and Mr Gatien are here after that, we'll proceed with that as the final presentation of the day. My understanding is that the 3 pm delegation has had to cancel because they are stuck in Washington.

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UNITED ASSOCIATION OF JOURNEYMEN  
AND APPRENTICES OF THE PLUMBING  
AND PIPE FITTING INDUSTRY, LOCAL 800

LABOURERS' INTERNATIONAL UNION  
OF NORTH AMERICA, LOCAL 493

**The Chair:** If the committee is in agreement with that, we'll proceed with Mr Laforest, business manager, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, Local 800.

**Mr Ron Laforest:** Good afternoon. First of all, my name is Ron Laforest. I'm business manager of the united association of plumbers, steam fitters, welders and apprentices, Local 800, which represents members in Sudbury, North Bay, Timmins and Kirkland Lake. Maybe I can speak also for Local 508, which is Sault Ste Marie, and Thunder Bay, which is 628. I don't know if you know it, but they disagreed with this bill also. Even though my organization did agree, the Ontario pipe trades, the three locals in the north disagreed with it. Maybe the north has a good reason for not liking this bill.

First of all, I just want to bring up a very good example here of what could happen on mobility. The biggest thing for us in the north is mobility. We do a lot of work on gas compressor stations, which are all over the north. There's no contractor from Sudbury or anywhere else in the north who does this work. They're all from the south. At one time, four or five years ago, we couldn't supply the welders for that, so they came from southern Ontario or elsewhere in Ontario because our people weren't trained to do this kind of welding. They would be bringing in people from southern Ontario to do this work. Our guys wouldn't be able to do it, so we spent probably a couple of hundred thousand dollars, our union training money, to train our people to be able to do this work. We have the facilities at our union hall and we trained them to do the work. Now they can do the work. Now we do have the jobs. But still the contractors are from down south, so now if they get a job, they would be bringing their people from down south. All this training we did for our people would be no good any more.

Why would they bring their people from down south? First of all, they have welders that are tested already. They wouldn't have to retest. The cost of retesting a welder from our local would be a couple of days' work, so they'd take them from down south and give them the job here.

Another thing: Our local has a big area, as I told you, so our people are always travelling. They work in Smooth Rock, they are always on the road. It's very hard for their families because these guys are never home, and now you're asking for them to bring people from outside to do our work. That means they'll still not work at home. They'd be travelling all the time.

We don't have seniority in our local, as does big industry. So when contractors hire us, in two hours they

can lay you off and get rid of you if you don't do your job. They do that. So they don't need the 60% name-hire, I think. Give everybody a chance. Contractors don't even know some people. At least with the system we have in place, it gives everybody on the list a chance to go to work. If they don't like them, they lay them off after anyway. It doesn't matter if they're there first, they're first to go if they're not that good. But don't take away the opportunity of the person who is not known or has a bad back to go and show that he can do the work. With what you're doing here, the guy won't be able to show that he's capable of doing the work. I have one member who has one eye. People will say, "Let's not take a chance on him."

Another thing with this 60% name-hire, who is going to work safely on the job? Say a foreman tells you to go up a scaffold that doesn't have handrails. If you say no, next time will you be name-hired? So everybody is going to do things that aren't right just so they can get name-hired.

People don't realize how important it is to have a job. In this area, as you know, in the last couple of years there hasn't been that much work. It's not due to competitiveness that we're not having work; it's just because it's not there. We are competitive with non-union. We do things to be competitive. We are getting the work, the little work there is. But give everybody a chance to work. Give the older members a chance to work. He could be working better than a young guy, but if he doesn't have that chance, nobody will know. This guy will be sitting at home not working because of the 60% name-hire or the 40% mobility to bring somebody in.

The other thing I want to say on the competitiveness—I know that one of the first things that's going to be asked of us is that instead of getting double time for overtime, go to time and a half. We don't want time and a half. We'd rather have four times instead for double time. That way, maybe we wouldn't work double time. Everybody wants you to finish their job, the client, so they can make money faster, so instead of being an eight-month job, it turns out to be a two-month job. Then the rest of the year you're off. Our guys would rather work six, seven months a year than have to do it in two months with all kinds of overtime, being away from their families and everything. But this is what happens. If they want you to do it at time and a half, then they'll want you to work more overtime. Then your job is going to be shorter, you'll be away from your family more. I'd rather there was no overtime, that we'd just work 40 hours a week and then go home to our families.

That finishes my report. Thank you very much.

**The Chair:** Thank you, Mr Laforest. We do have questions.

**Mr Bartolucci:** Madam Chair, Art Adams represents the Labourers' International Union.

**The Chair:** Sorry, Mr Adams. Did you also want to add something?

**Mr Art Adams:** Yes. I'm Art Adams, business manager of the Labourers' International Union, Local 493 in



Sudbury. We represent approximately 725 members in northern Ontario, which would take in Nipissing, Timiskaming, Cochrane, Timmins, Sudbury, Manitoulin—quite a large area.

I'll go on record as being opposed to this bill. The major concerns we have with this bill are mobility and name-hires. A lot of individuals have come up here today and talked about workers from other parts of the province coming in. But I want to give you an example of how people from outside the province could come in here to take the jobs. We're an international union. We have members all across Canada, from the east coast to the west coast. Those individuals have a right to transfer from one local union to another. Somebody from Nova Scotia could deposit his transfer into Sudbury, Local 493, as a labourer. A company could then name-hire that individual and put him out on the job.

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Members who live in the area, who have been here and resided here for years, who have gone unemployed because of a lack of construction work, would then be forced not only on to the UI list but now on to the welfare list. While they pay taxes in this province and in this part of the province, they're going to sit there and watch individuals even from outside the province coming in and taking those jobs. I'm going to tell you, it will happen.

When I see this bill I think how fortunate I am to be the age I am, because I would not want to be a young person looking at a future in construction work with the disastrous effect this is going to have. Number one, it will reduce the safety factors on the job. Number two, it'll bring down the wages of construction workers in this province. I have no doubt about that at all. It will force people to move from one area of the province to another, and the workers will have to bear such things as paying for their own room and board. It'll also drive down the quality of construction on projects that are there now too, and I have no doubt about that. That's all I have at this point. Thank you for your time.

**The Chair:** Thank you, Mr Adams.

**Mr Gill:** You did bring up an example that somebody from Nova Scotia within your own union could transfer himself to Sudbury. If he has the seniority, would you say then he would be picked first, under your scenario?

**Mr Adams:** The way it works now, an individual from Nova Scotia has the right to transfer and place his card in our hall. But he would have to reside here in the area and he would have to wait until his turn came to be dispatched. First into the hall, first out, with the necessary qualifications. So he would have to work up the list. To give you an example, it could be a year's time. I don't know if a guy from Nova Scotia is going to come up here and sit for a year. If he's going to come, then he's going to move his residence. With the new scenario, he could deposit his transfer in the local today, the contractor could name-hire him tomorrow, regardless of where he is on that out-of-work list.

**Mr Gill:** If there was a contractor—again, maybe I'm hypothesizing—who was north-based, Sudbury-based, I

guess the name-hire and the mobility will work in their favour, so that they could take the workers from here to western Ontario or to southern Ontario. Do you think that's a good thing?

**Mr Adams:** Very few of our contractors from northern Ontario bid outside of our area. It works the opposite. The vast majority of contractors bidding in here, especially on larger-scale projects, are from outside the Sudbury and northern Ontario area.

**Mr Bartolucci:** Art and Ron, thanks very much for your presentation. I guess what the committee has to understand is that ever since we started, Larry Lineham, Tommy Whynott, Michael Stewart, Serge Ayotte, Jim Lajeunesse, Tommy Cardinal, now Art Adams and Ron Laforest have tried to tell us that it's different in northern Ontario. The reality is that if the bill goes as is, without amendments, this is going to hurt the construction industry in northern Ontario, it's going to hurt the construction worker in northern Ontario. I also think, and I've said this publicly in the House and at committee hearings, that this bill really does hurt the opportunity of fairness for all workers in the construction industry.

Ron, I want to go back to you, because I know your local well and I know the workers in your local well. Expand on the one example you mentioned here already this morning. That guy isn't going to work under these rules. He'll work, but it'll be so rarely, because the only way that guy is going to get hired is through the hiring hall procedure. Now, his wait is going to be magnified by I would suggest at least 300% for him to get work. Outline that. Then, because health and safety is a concern to me in the construction workplace, having almost lost a father through a construction accident, I'd like you to outline how this bill enhances safety in the construction field or deters from it, either or both.

**Mr Laforest:** First of all, I want to bring up a situation we have in our local on mobility. We have, as I told you, the districts of Sudbury, Timmins, North Bay and Kirkland Lake. It was the members who put in the agreement that if there's work in Sudbury, the Sudbury guys go to work in Sudbury first, even though they're members of the same local in Timmins and North Bay. After that, they come from Kirkland Lake, North Bay and Timmins. It's the same thing in Timmins if there's work in Timmins, because it's their home. Why shouldn't they be working at home? Is it fair to have a Sudbury guy working in Timmins when they live there? I don't think that's fair to anybody. The same thing in North Bay. I don't think Mr Harris would like having somebody from Toronto or elsewhere working in North Bay when his guys are not working. I don't think it's fair. The thing is, it doesn't work both ways in northern Ontario. Our contractors don't go out of their jurisdiction. Very few of them do. It would just be people coming in and nobody going out. That's the problem with the bill. It's no good for northern Ontario.

**Mr Bartolucci:** What about the safety aspect, the second part of my question?



**Mr Laforest:** The safety aspect is just terrible. Can you imagine somebody asking you to do something, even if it's not safe? You have to or else you won't get name-hired any more. You won't get out if you don't do it even if it's unsafe, or if you don't lift something that's 100 pounds; even if you're not supposed to, you're going to lift it because maybe you'll get name-hired next time.

**Mr Bartolucci:** That's a reality in the industry. It really is.

**Mr Laforest:** Especially in a smaller local like we have. Everybody knows each other.

**Ms Martel:** Thank you, Art and Ron, both of you, for coming today.

Can I go back to the mobility issue, Ron, for you in particular? You had said, why would contractors bring people from the south? Because they're already tested so there's no need to spend days to test them. I didn't clearly understand that. What are the requirements that you're referring to?

**Mr Laforest:** Like I told you, this is very special welding on natural gas, so there's probably about two days of testing. TransCanada tests all the welders. What happens is that we don't have contractors who do this work. They all come from the south. You have the Adam Clarks or the BFC, which have shops already and people who are tested already. They could bring them here and they wouldn't have to test them because they're already tested with that company.

**Ms Martel:** So if they're hiring locally they're losing a couple of days on the job already just to try and test. You mentioned that your union made some enormous efforts to try and get people trained so they could do the work without having to bring people from southern Ontario. You said you spent a couple hundred thousand dollars on training?

**Mr Laforest:** That's right. We had to buy the machines, we had to buy the place, built the garage to keep the machines in and everything. We brought in some 42-inch pipe; that's the size of the pipe they have to be trained on. We successfully passed 10 people last year to make their tests.

**Ms Martel:** Who are qualified and can do this work.

**Mr Laforest:** Who are qualified to do that work.

**Mr David Christopherson (Hamilton West):** I want to come back to the retesting, if I can, because it's the first time I've heard that. We are, of course, trying to identify those areas that negatively impact on construction workers, contrary to the government's best arguments. You mentioned that this was in the case of natural gas. Are there other examples where you would have testing time, even if it's half a day?

**Mr Laforest:** For any job.

**Mr Christopherson:** Everything, virtually?

**Mr Laforest:** Everything. A welder would be tested for a contractor for one year, that contractor. If he works there two months and goes to another contractor, he'd have to retest.

**Mr Christopherson:** And that's usually a couple of days?

**Mr Laforest:** This is for TransCanada, not for the other ones. The other ones would be about four hours.

**Mr Christopherson:** Four hours, but for every local person they hired, it's four hours lost. And if that person, say, doesn't pass, then they've got to go to the next person and that's another four hours, so it can be a headache they could avoid just by bringing up their own folks.

**Mr Laforest:** That's right.

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**Mr Christopherson:** You mentioned that you've got three locals in the north, in the Sudbury area? Timmins—

**Mr Laforest:** Only one local, but it comprises North Bay, Timmins, Kirkland Lake and Sudbury. But we have three locals in Northern Ontario that disagree, which is 508—that's Sault Ste Marie—and Thunder Bay.

**Mr Christopherson:** Which disagree with the position you—

**Mr Laforest:** With Bill 69.

**Mr Christopherson:** OK.

Art, on people travelling from outside, on what you said, I just want to be 100% sure I've got it. If somebody comes in from Nova Scotia, as Mr Gill pointed out—you were saying that under ordinary circumstances they'd have to reside here and work their way up the seniority list and be qualified for the work that's available. But under Bill 69, your concern is that people could come in from anywhere, and if they've got a relationship with the contractor, they can get name-hired. In your case, they've got national mobility to move into Ontario, if they've got that relationship, and always keep on working, at the expense of local people who sit at home.

**Mr Adams:** It could go as high as 76%, because they could have individuals come from Nova Scotia to Ottawa, have them brought up under the mobility portion of this.

**Mr Christopherson:** That's 40%.

**Mr Adams:** Then they could also have individuals come and put their transfer into Local 493 and use an additional 36% on the job by name-hiring those individuals. So we would have 24% of local people we could put on to a job, while 76% of the total workforce out there would either be from somewhere else in the province or out-of-province. We have no control over that.

That's basically how it works. Here we don't have name-hires in the local. We have the right to recall. When an individual has worked for an employer in the past 12 months, we will allow the contractor to recall that individual after a layoff. We don't have any name-hires.

**Mr Christopherson:** That's been very informative. Thank you.

**The Chair:** Thank you very much, Mr Laforest and Mr Adams, for coming to speak to us.

#### ELECTRICAL CONTRACTORS ASSOCIATION OF NORTHERN ONTARIO

**The Chair:** Members, we have one other delegation. I could ask if they're all here. You may want to proceed if they wish to proceed. Mr Bryant, Mr Burton and Mr



Gatien of the Electrical Contractors Association of Northern Ontario, would you be prepared to address the committee now? Great. Please come forward.

**Mr Peter Bryant:** Good afternoon. I'm Peter Bryant, director of ECA Northern Ontario, chairman of the electrical trade bargaining agency, and president of Esten Electric here in Sudbury. With me are Cec Burton, president of ECA Northern Ontario, and electrical manager of Comstock's northern Ontario division; and Wayne Gatien, vice-president of ECA Northern Ontario, line contractor representative to the electrical trade bargaining agency and president of PowerTel Utilities Contractors.

As you can see, northern Ontario contractors are representatives of both the local and provincial construction labour relations scene. Together we represent 30 electrical contractors in negotiations with IBEW Local 1687 in the north, covering the Soo, Sudbury, North Bay and Timmins.

As chair of the ETBA, I'm responsible for provincial negotiations covering 700 or more contractors throughout the province. I would like to begin by wearing my provincial ETBA chairman's hat and make some general comments about Bill 69 and then turn the mike over to Cec and Wayne for local specifics.

In general, we support the government's initiative to create a fair, competitive system for everyone to work within the ICI sector. Bill 69 is a reasonable alternative method for achieving improved competitiveness and fairness in our industry.

The general structure of the bill deserves comment. It is clear that Bill 69 encourages labour and management parties to work out the specific details of such issues as hiring, mobility and other local modifications to the provincial agreements. This structure challenges the industry to make the process work, and I commit the ETBA to achieving that end.

The only part of Bill 69 that is not process oriented is 160.1, which is a vehicle to allow a union to abandon bargaining rights with individual contractors, presumably general contractors, without the consent of subcontractors who would be adversely affected. As chairman of the ETBA, it is my responsibility to ensure that all 13 areas of the province are treated equally. I do not think this is possible under the abandonment section of Bill 69 in that it doesn't allow for any input by subcontractors in the process.

The process for modifying the local elements of the collective agreement is well defined. To get relief in Sudbury, this local association has to make a case and have it decided by an arbitrator if an agreement cannot be reached. In the abandonment provisions, there is no such process. A union gets to make a unilateral decision which could have significant negative impact on individual contractors represented by the ETBA.

I'm also concerned that area associations affected by any abandonment have the opportunity to respond to this new competitive challenge. Any form of abandonment provision should be delayed until after the next round of provincial-wide bargaining so that its impact can be

addressed at the provincial bargaining table and through local modification procedures in Bill 69.

I know through my constituents at the ETBA that many electrical contractors in other jurisdictions will be hard-pressed to survive if the general contractors, their primary clients, are released from their subcontracting obligations to the IBEW.

That said, I return to the overall direction of Bill 69 and on behalf of ECA Northern Ontario and the electrical trade bargaining agency endorse and support the provisions relating to hiring, mobility and local modification to provincial agreements.

I'd like to turn it over to Wayne Gatien.

**Mr Wayne Gatien:** Thank you for allowing us to make this presentation.

ECA Northern Ontario supports the government's initiatives on hiring and mobility. One of the major concerns of unionized electrical contractors is the union hiring hall. In most instances, workers are dispatched to the employer on the basis of the length of time a worker has been unemployed. This often results in workers being dispatched who are not well suited to the available work. Normal criteria for hiring, such as special skills, additional certification, previous work history and suitability for the available work are generally not considered.

The electrical contracting industry is a dynamic and technologically driven business. New skills emerge regularly, many requiring both on-the-job and classroom training. Some go as far as to require additional certification, such as work on fire alarm systems. In the industrial areas of the province, specialized safety and orientation programs are taken by workers before they can be employed in certain work areas. In this area, for example, our electricians must take a safety and orientation course before being allowed to work underground in the mines, and I still haven't mentioned the new opportunities arising from the revolution in the communications business, with its ever-changing systems and proprietary vendor training.

#### 1340

The traditional hiring hall operates on the theory that all tradespeople are equally qualified. This reality is otherwise. Today's electricians are no longer mutually interchangeable. The government's initiative on hiring is meant to address this issue by providing a contractor the right to select up to 60% of the workers it will employ each time the contractor goes to a hiring hall to hire additional workers. There are many positive effects arising from this initiative, not the least of which is the improved efficiency of training. Employers will be able to do a better job of matching workers to the work. Workers will be encouraged to engage in additional training in the knowledge that they may actually get to use their new skills in the field, instead of losing them while they are waiting their turn on the list.

Another benefit will be increased hiring, resulting from smaller contractors taking on additional work and workers. Since mistakes in hiring have more impact on small employers, smaller contractors tend to avoid work



commitments which require them to go to the hiring hall for additional workers. They are also more likely to make do with existing workers performing overtime, rather than adding one or two workers to the payroll.

The government has addressed these concerns through Bill 69 by permitting contractors to select 60% of their additional workers every time they go to the hiring hall. This substantially reduces the risk associated with hiring new workers and will result in increased work for both unionized employers and employees. Since the hiring language in Bill 69 is default language, each party to a provincial agreement is given the opportunity to customize it to suit their own particular circumstances. ECA Northern Ontario is committed to working closely and positively with our labour counterpart to maximize our mutual benefit from this section. We'll do our part to make this work.

Another competitive challenge answered by Bill 69 is the restriction on transferring core unionized workers from one geographic area of the province to another. Traditionally, employers may bring only one experienced tradesperson into another geographic area, and they must employ all additional workers from the local union hiring hall. This means workers familiar with the contractors' operation, practices and techniques cannot be transferred from one geographic area to another. We are the only business I know of which can sign and seal a multi-million dollar contract and then turn the work over to complete strangers to deliver. A key attribute of our non-union, often out-of-province competition is their ability to move personnel from job to job without restriction, whereas in the unionized sector, working away from home can be a white-knuckle time.

The Electrical Contractors Association of Northern Ontario membership is naturally reticent about opening its doors to more competition from outside the area but at the same time appreciates the new opportunities available to us as a result of Bill 69. Bill 69 will allow ECA Northern Ontario contractors a broader range for selling their expertise in other jurisdictions, which will benefit both the contractors and their unionized employees. Essentially, mobility is a two-way street, where all participants specialize in and sell what they do best; it is also a right that is limited in its use due to the economic realities of supporting large numbers of workers away from home. A contractor will take only enough workers into another jurisdiction to ensure the consistency of their product. To a certain degree, mobility already exists for the workers. In tough economic times, large numbers of local tradespeople travel without compensation to Windsor or Oshawa to work. Similarly, when the resource sector is booming, large numbers of IBEW workers migrate to northern Ontario. One can expect the same ebb and flow with the mobility provisions in Bill 69 as contractors seek to advance their company and its employees by marketing into busier areas.

ECA Northern Ontario supports the government initiatives to give contractors the right to select up to 40% of the employees needed to perform a contract from among

their employees from outside the local area in which the work is to be performed. Time permitting, I'll have a few other comments after Cec is done.

**Mr Cecil Burton:** Good afternoon. I'm going to speak on local modifications enabling. The government's initiative on local modifications to the provincial agreement provides a practical method for tailoring broadly applied provincial or local conditions of employment to suit the changing needs of the local marketplace. In spite of the efforts of the electrical trade bargaining agency and the IBEW Construction Council of Ontario to introduce a province-wide market recovery program, ECA Northern Ontario and local union 1687 have been unable to implement it in this area.

The provincial effort has been very successful in most jurisdictions where the local parties adopted and used the program. The local electrical contracting economy has been dominated by the industrial resources marketplace, which periodically requires large numbers of tradespeople in remote locations working under very tight timeframes. This situation results, over time, in collective agreement provisions geared specifically to the needs of this type of work. This reality ignores the fact that other markets with other standards of employment exist and require attention or they will be lost.

For example, in Espanola, a multi-million dollar project at the E.B. Eddy—which is now Domtar—pulp and paper mill would require a large workforce of industrially oriented workers working under the terms of our local appendix to the provincial agreement. It contains all the necessary room, board, travel, wages etc to attract and hold a large workforce. Literally across the street the town decides to build a community recreation centre. Clearly, the same conditions cannot apply to both projects. Without the ability to address the specifics in each market and to fine-tune our agreements to meet local needs over time, we will lose our competitive advantage in one market or the other.

With respect to commercial and even some institutional work, there is evidence that this is already occurring. The government's initiative to create a mechanism to create local modifications to provincial agreements addresses this concern. The geography of this jurisdiction requires travel and room and board to be paid in most areas outside the major population centres. This results in a situation where contractors based in areas such as Elliot Lake are technically liable to pay for conditions for work in their own community regardless of the numbers or type of work required. In other words, they are liable to pay room and board, travel, the conditions that I mentioned before. Again, the flexibility provided by the local modification procedure will help to iron out these problems and avoid the situation where the growth potential of our commercial and institutional marketplace is limited to the larger centres.

1350

One of the areas of the local modification procedure that requires review is the list of eligible items for modification. The complexity of our agreements and unique



working conditions require the ability to amend all terms and conditions of employment that affect competitiveness. For example, underground work at the mines would require a non-standard work schedule which may not be readily identified on the list of items. For simplicity and to avoid unnecessary litigation, it would be better to state what cannot be changed, such as union recognition, safety, union security etc.

We are also concerned about the designation of regional employer organizations which may apply for local modifications. The ECA Northern Ontario is a constituent member of the ETBA and effectively represents its members in that forum. In our opinion, ECA Northern Ontario should be the only designated regional employer organization where the electrical provincial agreement is concerned. Our existence should be a bar to any other group applying to be designated.

With these minor, but positive, amendments, ECA Northern Ontario endorses and supports the government's initiative to permit local modifications to a provincial agreement. This procedure will make province-wide single-trade bargaining more responsive to local conditions and improve the fairness and competitiveness of Ontario's construction economy.

**The Chair:** If that's your submission, gentlemen, we have only a few minutes for questions.

**Mr Gatien:** I have a quick comment if time permits. It's more of a personal note than anything. I have the responsibility to run a family business. A family business is a little bit more difficult. There are extra requirements in a family business. I bought the business from my dad about 15 years ago and promptly fired him. That's a good and a bad story. He was without a job, but he was able to negotiate his own severance. At the time, it was difficult, because in a family business being the son chosen to continue the legacy and still working for your dad, when you have an argument you never know if you're going to be fired or grounded. The responsibility is very large. For 15 years I've led the company.

In the unionized construction sector, the union designation extends beyond me to my office staff, my brothers, my sisters, my mom, my dad, my wife, my kids, my house, my pension, everything. If I fail in business or if one of us wants to start a new business, the present legislation infers that all the above are subject to union rights.

The union representatives here today continue to talk about the lowering of wages and standards. If it were wages only that we competed with, I could compete against anybody. In certain circumstances, the cost of the remainder of our collective agreement is prohibitive. Because of clauses in our collective agreement, I am required to pay a first-year apprentice, this is somebody who's 18 or 20 years old, over \$600 per week in benefits and pensions. This is more than the non-union pay in regular-time wages. Our employer and employee associations got together over an extended period of time and came up with a market recovery program. However,

our local union refuses to use it. We have no mechanism to overcome that.

Mobility clauses allow us to take our workers elsewhere. That applies to our firm specifically right now, only in one trade, though. As line workers in the province of Ontario, we have mobility now for our sector. For this little Sudbury contractor, it works. I can compete with the big Toronto contractors anywhere but downtown Toronto. That's because I choose not to go to downtown Toronto. I can go anywhere else: Hamilton, Niagara, Peterborough, Thunder Bay, Kitchener. Our Sudbury-based workers go with us. But I need the other shoe to run competitively. I need name-hiring.

Our company purchases many half-million-dollar pieces of equipment. I put radios, cellphones, satellite phones, everything under the sun into those pieces of equipment. Now I do not get to choose who operates this piece of equipment, this investment. I doubt any of you would do that with your assets, personal or otherwise.

We do not go around older workers in our business. In fact, the collective agreement we have right now has a clause to ensure older workers work. In my 25 years, it has never been used. Those older workers work. Our local has given incentives to our older workers to retire early so younger workers could get the work. The unionized workers have always been given the ability to get the work. All I want is the ability to compete. If I am given the ability to compete, I guarantee you that our workers will work.

**The Chair:** Thank you. We actually are out of time but I will allow a little bit of leeway here if you have one question.

**Mr Bartolucci:** Peter, Cec and Wayne, thanks very much for your presentation, much of which you know I disagree with, some of which I can sympathize with and some of which I think is open to negotiation at the local level or at your ECA level.

Let me just zero in on one comment that you made, Wayne, not to be confrontational because it's not the place. I respect your right to an opinion. You said that the way the hiring hall works now, workers are assigned to the contractor based on how long the worker has been unemployed. There's no argument with that. That's how the hiring hall works. How is this legislation going to improve that for the 26% that remain in the hiring hall? Wayne?

**Mr Gatien:** How is it going to affect the 26% that are left in the hiring hall? Why are 26% left in the hiring hall? The numbers work whether you hire 10 people or 100 people. The first worker on the list may or may not have the exact qualifications, training, certification and so on that you require. Presumably, the ones that you've chosen already do, so they will have less of an impact economically on how you compete.

Right now we have to compete with non-union and out-of-province contractors who have the same employees every job, 100%, job in, job out, it doesn't matter, and these are not just on little jobs. For the last two jobs, which totalled approximately \$30 million, I

was the only unionized contractor bidding the job. I was one of 30% of in-province contractors bidding the job. The two jobs went to one non-union in-province and one non-union out-of-province. What does that do for your 26% on your list? Nothing. They may still get the work because if these guys stay out of work long enough, they'll go work for that non-union contractor. I don't have that ability. I can't do that. I don't have that choice.

1400

**Mr Christopherson:** Thank you for your presentation, gentlemen.

Just further to the answer you were giving in terms of the people left over, you can appreciate that the submission made by unions here and in other places is that people who are active in health and safety, who have been active as a union steward are likely to be looked over.

You probably heard the presentation from another union talking about a member who has one eye, which may or may not affect their ability. I'm assuming it doesn't in terms of the work they perform and once they're in that hall they should have every opportunity, but human nature being what it is—we're not asking people to be saints or go against human nature—if you've got a choice between hiring somebody who has two eyes or one eye, guess what's going to happen. Or if you've got a choice between hiring someone who has no track record, they're fairly new in the industry, versus someone who had a particular interest in health and safety, human nature is that you're not going to pick that person. You don't want that person on your site if you can avoid it. If you're given the chance—under this legislation you would be—that person will sit.

I take very seriously the point that workers will also ignore safety rules or direction they're given that would have them work unsafely for fear of being tagged a troublemaker, someone who can't get along. These are serious concerns in terms of the long term. I appreciate for each of you it's not that huge, but cumulatively in terms of the number of hours of work performed across the province, this has serious implications.

The other thing I want to mention to you is that at the end of the day, all that's going to happen is that we're just going to see workers pitted against one another to see who can work for the least amount of money. Yes, business will operate better, business will operate more efficiently, I'll bet you business will work more profitably, but construction workers and their families over the years will see their standard of living decline, decline, decline, union and non-union. This is a concern and this is one of the reasons why we think the government is going in the wrong direction here. So just comment on those two observations.

**The Chair:** That's a five-minute question. If you would like to respond to it in under three minutes, we'd really appreciate it.

**Mr Bryant:** I'd like to address the safety issue as it's a very important issue. It's very important to electrical contractors, and electrical contractors, as supported by

the Ontario Construction Secretariat, are twice as safe as non-union electrical contractors in the province.

**Mr Christopherson:** Two and a half times.

**Mr Bryant:** Two and a half times. We take great pride in that. Electrical contractors have put forward many initiatives collectively to go forward and train our workers. We have provincial programs that work to that end.

The laws of the land that you people make and that are in place with the requirements for health and safety require health and safety representatives on all projects. They are appointed, in our case, in Local 1687, by the business manager. He has appointed the health and safety reps on the project. They're appointed, they have never been objected to, and I see no reason in the future that that would change. Our contractors are very responsible in that manner. I would like to say that is across the province, and I am speaking on behalf of electrical.

As much as I can understand the concern, it's a serious issue to all of us here too and it's one I think is well addressed. Safety is paramount in the electrical industry.

**Mr Christopherson:** Under the existing law. I just worry about what will happen under the new law.

**Hon Mr Stockwell:** Just a couple of quick points to follow up the line of questioning. If what Mr Christopherson said is true, then all those collective agreements that have enabling clauses, that have mobility and that have name-hiring, would be suffering what he suggests is this serious travesty. It doesn't seem to be happening. There are many collective agreements out there that have these clauses built right in them, but none of those things that he suggests is happening on these sites. So it would seem to me that although you may suggest this could happen, there is absolutely no proof that it is happening. In fact, exactly the opposite: there is proof that it doesn't happen where this takes place.

The further point I'd like to make and maybe make a comment on is there is a lot of talk from the union side of things that they don't want the unionized employers to double-breast. In essence, it's 1(4), and they don't want 1(4); they don't want to allow double-breasting. But I've heard too many times from too many employers, and from union people too, that although the union operations don't want these employers to double-breast, union workers double-breast. They work on a union site until they run out of work, and then, not all, but some, decide, "Well, I can't get any work on the union side of things," and they go and work non-union.

Are there any comments you would like to make on either of those?

**Mr Gatién:** Back to the health and safety issue and the injured worker issue, it is a difficult issue at best. Collective agreements are very poor places to attempt to handle that circumstance. We've attempted to allow the proper ministries to look after that. That worker's interests are better represented in those circumstances.

You talk about the person with one eye. I am not responsible for all the injuries that have taken place in the workplace. In fact, our health and safety record is very



good, and it's not because we're forced to go there by the local or by the IBEW; it's because we choose to go there.

However, on the injured worker, many times in the past a person has come to the top of the list and we require someone to climb a pole and we know this person has an injury that stops him from climbing a pole or doing it safely or doing it efficiently, and we have not been given the choice to go to another worker. So now we have to make provisions for this worker. It's a difficult issue at best.

There are many compensation and safety issues that labour legislation will never have the ability to handle, and shouldn't have the ability to handle. I've witnessed people on compensation who are in jail for other offences, still collecting compensation. I don't think it's up to the labour ministry to look after that. That's the

work of other ministries to look after that, and they better represent the issue at that point in time.

**Hon Mr Stockwell:** The double-breasting?

**Mr Gatien:** Especially in our sector we know that takes—almost 100% of the workers who go on the list for extended periods of time do double-breasting and 100% of the employers are not allowed to. There are no ifs, ands or buts about that.

**The Chair:** Thank you, gentlemen, for coming.

That's it for the submissions. I would like to close by thanking everyone for coming today, thanking you also for your patience and your flexibility.

Members of committee, lunch is provided for committee and staff. The shuttle bus will be available at 2:45. This meeting is adjourned until tomorrow at 10 o'clock in Windsor.

*The committee adjourned at 1407.*







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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 25 May 2000

# Journal des débats (Hansard)

Jeudi 25 mai 2000

## Standing committee on justice and social policy

Labour Relations Amendment Act  
(Construction Industry), 2000

## Comité permanent de la justice et des affaires sociales

Loi de 2000 modifiant la Loi  
sur les relations de travail  
(industrie de la construction)



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Thursday 25 May 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Jeudi 25 mai 2000

*The committee met at 1002 in the Mackenzie Hall, Windsor.*

LABOUR RELATIONS AMENDMENT ACT  
(CONSTRUCTION INDUSTRY), 2000LOI DE 2000 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL  
(INDUSTRIE DE LA CONSTRUCTION)

Consideration of Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry / Projet de loi 69, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui a trait à l'industrie de la construction.

**The Chair (Ms Marilyn Mushinski):** I call the meeting to order. Good morning, ladies and gentlemen. This is a standing committee on justice and social policy meeting to discuss Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry. Each delegation or group has 20 minutes to make their presentations, which will include any time left over that we may have for questions from committee.

SHEET METAL WORKERS'  
INTERNATIONAL ASSOCIATION,  
LOCAL 235

**The Chair:** The first delegation this morning is Mr Robert Macintyre, Mr James Moffat and Mr Pettipas of the Sheet Metal Workers' International Association. Good morning, gentlemen.

**Mr James Moffat:** Good morning, Madam Chair and committee members. It's good to see your smiling faces again. To my left is the business manager of the Ontario Sheet Metal Workers' and Roofers' Conference and to my far left is the business manager of Local 235 of the sheet metal workers and roofers in the Windsor area. Robbie will be doing the presentation on behalf of his local union members with the local spin on how this bill is going to dramatically affect the members and their families in this area.

**Mr Robert Macintyre:** Good morning, committee members. My name is Rob Macintyre. I'm the business manager of the Sheet Metal Workers' International Association, Local 235. My local represents over 240 sheet metal workers and roofers who live and work in the

Windsor and Chatham areas. I am here today to voice my local's opposition to Bill 69 and what it will do to workers in Ontario in general and to workers in Windsor and Chatham in particular.

I am here today not to endorse this bill but to tell this committee that it is a terrible bill and ask you to seriously consider the damage it will cause to Windsor and Chatham and to the people who live in these cities. Our first preference is that Bill 69 be withdrawn in its entirety and not replaced with the repeal of section 1(4).

We oppose the bill because it will hurt all workers and unions in Ontario for the following reasons.

First, Bill 69 is a race to the bottom. This bill is about reducing the wages of all workers. There is no doubt about that. In one address to the building trades unions, the Minister of Labour asked, "Why should a worker in Wawa make the same amount of money as a worker in Toronto?" Ask the people of Wawa if their workers should have their wages cut. We agree with our conference when it says that once unionized workers' wages are reduced to the non-union level, the non-union wages will in turn be reduced even more. This is inevitable. Wages then will go down and down and down.

Bill 69 is not necessary, as ICI collective agreements today ensure that our companies are competitive. Our sheet metal collective agreement presently contains separate local appendices to allow for local unions to agree to changes in wages where necessary. For example, my local union members, Local 235, have voted to use the amending clause to make our contractors more competitive in the smaller markets through a minor construction agreement. But this was voted on by the membership and not legislated by government.

Second, Bill 69 is an attack on our hiring hall and encourages favouritism and discrimination. Section 163.5 of Bill 69 will destroy my hiring hall by allowing employers to pick and choose. It allows employers to import up to 40% of the workers needed for a project from outside Windsor. This means that 40% of the jobs in Windsor, which should be given to people who live and work and raise their families in Windsor, will go to workers from outside the area, workers who would rather work in their own home towns but who will be forced to travel by their employers. It allows employers to name-hire up to 60% of the remaining 60% of the workers needed. Together, this gives employers the right to name-hire up to 76% of the workers needed. This is shameful.



The hiring hall is the heart and soul of my union. It is the protection my members need to make sure that workers go to work based on how long they were unemployed. This makes sure that every worker gets a chance to work. No one would dare say that this is not fair, except this government. It wants to take that away and give companies the right to pick the same people over and over again. This guarantees that many people would not work. And who will get picked? The company favourites. Who will get ignored? The members of Local 235 who were previously on workers' compensation. Do they not have a right to work? Who will be ignored? The older members of Local 235. Do they not have the right to work?

The worst part about this is that it is not necessary. It is not necessary because all our members are either certified journeymen with five years of apprenticeship or registered apprentices supervised by journeymen. It is not necessary because article 25.1 of our sheet metal collective agreement requires me to supply our contractors with qualified workers. Therefore, a company can already reject a worker who is not qualified. In the last 25 years we have never had a grievance with respect to this issue. Why? Because we always supply qualified workers.

Bill 69 is an attack on free collective bargaining. The members of Local 235 have elected me to represent them in their dealings with their employers. They have elected me to negotiate decent wages, welfare benefits and pension plans on their behalf. They are being betrayed by this government. If Bill 69 passes, they will have a union but no right to have a say in their working lives.

Instead of democracy, Bill 69 says it is big government in Toronto and big employers from Toronto who will decide who works in Windsor and how much Windsor workers will receive. It is big government and big employers who will decide where Windsor workers will work, when they work and whether or not they get a pension.

While this bill attacks all workers in Ontario, it especially hurts workers outside Toronto for the following reasons:

First, subsection 163.5(1) will allow employers to employ up to 40% of the total number of employees required for a project from anywhere in Ontario.

Second, the government is attempting to allow large general contractors, such as Ellis-Don and Vanbots Construction, to operate non-union for some work, but only outside Toronto.

Third, section 163.2 enables companies from Toronto to seek reductions in wages and benefits in communities throughout Ontario. Thus, Toronto employers will be able to gut our Windsor collective agreements which were negotiated by local unions and local contractor associations.

What does this mean for Windsor and its workers? It means unemployment and poverty. Many workers in Windsor stand to lose their jobs—jobs with good wages which support themselves and their families. This will occur for two different reasons.

First, allowing employers to employ up to 40% of the total number of employees required for a project from anywhere in Ontario means that up to 40% of unionized workers in Windsor will lose their jobs. We have a lot of outside contractors, mostly from Toronto, working in Windsor. Right now they have to use our members. If Bill 69 is passed, these companies will not employ Windsor workers for Windsor jobs. Instead, they will force their own employees to travel to Windsor. Bill 69 says to Windsor workers that we do not have a right to work in the very town where we live and raise our families.

#### 1010

The following projects in Windsor were done by sheet metal contractors from outside Windsor: Casino Windsor, Windsor Art Gallery, Chrysler minivan plant, many of the six Ford plants, the co-gen plant. If Bill 69 had been passed, 40% of Windsor workers would not have worked on those projects.

The Minister of Labour has stated that the collective agreement requirement to pay accommodation and travel is protection for workers and ensures that the 40% rule will not be abused by employers. This is not true. Rather, Bill 69 contains a very big loophole. We have received a legal opinion which states that subsection 163.4(4) removes that protection by allowing arbitrators to amend collective agreements with respect to accommodation and travel.

As I said earlier, Bill 69, section 160, if changed, will allow big Toronto-based general contractors to decertify from the sheet metal workers' union and the other non-civil trade unions, but only outside Toronto. Therefore, the government wants Ellis-Don to be union in Toronto but not in Windsor.

If this occurs, Windsor workers will lose out again. Our members have worked on many projects of these large general contractors and are to work on many of the future jobs about to start, such as the Chrysler large van plant, two major Ford expansions and Chrysler headquarters. When these jobs finally arrive, our 50 presently unemployed members, some of whom have not worked since September 1999, will be forced through legislation by this government to stand on the sidewalk and watch their Windsor jobs being done by outside workers. This is not a very healthy environment for this government to create. This most definitely will force these members to social assistance. We ask this government not to turn its back on the people of Windsor in favour of this special interest group.

Second, if there are jobs left over for Windsor workers, they will be at low-end, non-union rates, with little or no benefits and pensions. As our members lose their jobs or are lucky enough to work at lower wages, this will have a terrible effect on the town of Windsor as it will see a reduction in taxes paid to the city and a reduction in spending generally. This will mean less money for public services and support for local merchants and charities.

To lessen the damage which will be caused to Windsor and other smaller communities outside Toronto, we request that you seriously consider the damage which



will be caused to smaller communities, including communities which this committee represents.

In closing, I would like to state that contrary to statements made out there that the building trades are somewhat in agreement with this bill rather than removal of subsection 1(4), let the committee be aware that our Essex and Kent building trades are opposed to the positions taken by the provincial building trades.

*Interruption.*

**The Chair:** Ladies and gentlemen, I would remind everyone that the rules of committee are exactly the same as the rules of the House, which means that we do not and will not tolerate any demonstration of any kind. It's not fair to members of committee and it is not fair to the delegates. I would ask you please not to demonstrate.

Thank you, Mr Macintyre.

**Mr Macintyre:** Thank you. For the sake of the people of Windsor and Chatham, we urge you to listen to what we have said and withdraw Bill 69.

**The Chair:** We have time for one question from each party. We'll start with Mr Duncan.

**Mr Dwight Duncan (Windsor-St Clair):** Thank you, Mr Macintyre, for your presentation. To those in attendance today, I want to note that it's most unusual to have only one government member at a committee hearing. I think it speaks volumes about listening and not listening.

Just one question I wanted to come back to: Could you again review for me how this harms communities like ours, versus Toronto, and the sections of the act so that I make sure I understand that, just quickly? Because when we vote against it we want to make sure we make these points in the Legislature as well as here in committee, that it hurts places like Windsor, as opposed to places like Toronto. Can you just go over that again for me?

**Mr Macintyre:** I think it's very simple and very basic: The more unemployed you have in a community, the more are driven on to the community's social assistance, which the communities are responsible for. Those people have less spending power, spending money. Their mortgages are at risk. They may have to move down—

**Mr Duncan:** If I can, Mr Macintyre, just to be clear, I want to come back to the section of the act that you referenced in your presentation and how it biases against Windsor, and that's because Toronto will be treated differently than Windsor? Am I understanding you properly, that within Toronto the same rules won't apply, so we're setting up two standards?

**Mr Macintyre:** If you're making reference to the collective agreements that exist with some major contractors that presently exist throughout Ontario, Windsor included, all of a sudden being eliminated for everybody except Toronto, that puts Windsor at a complete disadvantage in wage earnings. Is that the area that you're referring to?

**The Chair:** Mr Christopherson.

**Mr David Christopherson (Hamilton West):** Thank you for your presentation. You've touched on all the key issues that we're extremely concerned about. Let me say at the outset, to be fair, that there was an agreement prior to heading out on committee that we would have what

we're calling a truncated committee. I just want to be fair. The reason there aren't as many government members is because we agreed ahead of time that in order to accommodate the fact that this is constituency week, government and Liberals could have fewer people here, and that was accepted, just to be fair. Having said that, now let me rip into them. I think that's fair too, ripping into them. It's an awful bill.

The fact is that you make a statement on page 1: "This bill is about reducing the wages of all workers." You say right there, "There is no doubt about that." Absolutely, that's what's going on with Bill 69 and virtually every other piece of labour legislation that this government has amended, touched or brought in. They're hurting workers and you have every right to be here to protest that fact on behalf of your members. I applaud you for doing it.

The question I want to ask you is related to your comments on page 4. We hear the minister and the government and the contractors coming forward saying they need this flexibility because they need to make sure that when they go to the hiring halls they're getting people who are qualified. Of course, the argument is that if someone's not qualified, you don't send them out of the union hall. I found it particularly interesting that you say that in this area in the last 25 years you've never had a grievance from a contractor or an employer on this issue, that you've always been able to match up the skills required with the skills that your member can deliver. Can you just expand on that, please, because that's really important.

**Mr Macintyre:** That's correct. I would even venture a guess and be pretty confident that there's never been a grievance even outside of Windsor, throughout Ontario. So you can expand that for the whole province of Ontario, as far as sheet metal workers go.

Generally speaking, when a contractor calls for members—we have somewhat of a unique situation because we also fabricate the stuff that we install, so we have fabrication shops. Some people are more skilled at fabricating in the shops, so they get that fabricator. A lot of times some members can weld and some can't, so if they request a welder we send them out a welder, if that's the request. Sometimes they play games with that and ask everybody to be a welder when they only have two welding machines on site, but that's basically the nuts and bolts of it, that they get the people. I must say that we've done some major projects in this community, and this community is thriving. The auto industry keeps on investing in this community. We get those jobs done and we get those plants built and we keep them running. It's always done by the skills of those workers in all trades.

1020

**Mr Christopherson:** That's an excellent point to make. Thank you so much.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Thanks to the presenters for coming here. It is indeed my pleasure to be here to listen to all of you and hopefully bring in some of these changes if we need them.



Just to have a little more knowledge about the trade, is it true that if people can't find unionized jobs within your own local, perhaps, they have the democratic right to go and work non-union?

**Mr Macintyre:** I would say yes, they would have the democratic right. Anybody can make their choice at any particular time. But that being said, that unionized member in our local union would put his membership in jeopardy because in our international constitution that member is not allowed to work for a contractor that is not a signatory to the collective agreement. Within our collective agreement with the contractors, outside of our constitution, it is also a violation to the collective agreement for any worker to work with a non-union contractor. Conversely, a contractor could file a grievance with respect to that. If they knew of any union member working non-union, they could file a grievance on that particular member against the union.

**The Chair:** Thank you for your presentation this morning, Mr Macintyre.

**Mr Macintyre:** If the members in the audience only respond as the House responds, as you've watched on TV, I'm sure that's following the rules.

*Interruption.*

**The Chair:** Members of the committee, the House has also been cleared when people applaud in the galleries. I would again remind you—I know this is a sensitive issue for each of you. This is the fifth day of hearings and we've not had any demonstrations and I have not had to adjourn the meeting because of that, but I will have no hesitation in doing that if this continues.

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 530

**The Chair:** The next presenter is Mr Jack Dowding, International Brotherhood of Electrical Workers, Local 530.

**Mr Jack Dowding:** Good morning. My name is Jack Dowding. I'm the business manager for IBEW Local 530 in Sarnia, Ontario.

We represent approximately 400 electricians, linemen and apprentices in the industrial, commercial, institutional, maintenance, power, communications and utility construction sectors in Lambton county, also known in the Labour Relations Act as board area 2. The bulk of our membership is employed through signatory employers within the petrochemical industry whose hourly employees' wages, by their own admission, meet or exceed ours. So we've managed to stay in touch with industry in Sarnia.

For the past three years, the Sarnia building trades to which my local is affiliated have been harassed and harangued and finally, through the effects of Bill 31, manoeuvred into a five-year industrial project labour agreement which will cut my members' wage package by about 13% of its value. Two successive deputy ministers of labour assured us through these proceedings that with the successful implementation of a project labour agree-

ment, or PLA, in the Sarnia area, all the pressure for further amendments to the Labour Relations Act would become unnecessary. So what am I doing here today? I'm telling you that I don't believe this government is going to stop with the amendments put forth in this bill.

I believe the Ontario Coalition for Fair Labour Laws will continue to lobby for the elimination of section 1(4) of the Labour Relations Act, thereby allowing double-breasting. As a matter of fact, the Electrical Contractors Association of Ontario has told our provincial bargaining agent, the IBEW-CCO, that they have every intention of pursuing this continued lobby for double-breasting with this government if the general contractors are allowed out of their collective agreements outside of board area 8.

I don't agree with their goal of double-breasting but who can blame them for being upset with the treatment of the general contractors? On one hand, the government wants the electrical-mechanical employer and employee bargaining agents to participate in mandatory market recovery. On the other hand, because the president of Ellis-Don, a huge general construction company, raised awareness and big dollars for this government's last election campaign by chairing a lobby of this special-interest group of these affected contractors called "Liberals for Mike Harris," he and they are not expected, nor required, to experiment in market recovery. Why? Why are the Big Eight, as these general contractors are referred to, not being treated like the rest of the contractors in the construction industry? I'll leave you to draw your own conclusions.

I would now like to read you a letter I wrote at the request of one of our members. He is currently going through divorce proceedings, and with Bill 69 being such a hot topic locally, his lawyer was aware of but not familiar with the possible effects of Bill 69 and requested he get this letter from me. This is also a snapshot of my view on some of the effects of Bill 69.

"Dear Sir and Brother:

"Re: Bill 69

"Last month, Bill 69 was introduced in the provincial Legislature. According to the Minister of Labour, this bill is intended to lower the cost of construction in Ontario. As you might guess, ostensibly this bill provides a mechanism to seriously reduce wages and conditions in our industry. It will also target, I believe, our older members, or anyone who has ever had a lost-time injury on the job. Let me explain.

"Bill 69 alters our collective agreement in a variety of ways:

"(1) It allows an employer to bring 40% of his/her employees from outside of our area, in this case Sarnia-Lambton. Previously, only one supervisor was allowed according to our collective agreement. This will favour, obviously, the 'steady' employees of a firm who tend to be younger, and, occasionally, family members and so forth. This is an impediment to employment to anyone on a local out-of-work list.

"(2) Of the 60% remaining employees to be hired for a job, the employer has the right to now hire 60% of these



by name, or out of sequence from our list. This action will favour roughly the same employee group as referenced in point (1).

“(3) Beginning May 1, 2000, a mandatory market recovery program will be introduced and adhered to. Its application is identical to arbitration in professional baseball. Example: A signatory employer believes that to be competitive on a commercial project, he should be able to pay his employees \$15 per hour as this is his perception of what his non-union competitor is paying his employees.

“The union then puts forth their opinion of what the competing non-union employer is paying these same employees, say, in this case, \$25 per hour. If labour and management cannot agree on a compromise position, a government-appointed arbitrator would then have binding ‘final offer selection’: either labour or management’s position.

“To summarize:

“Example 1: A project in Sarnia in the industrial sector (not requiring market recovery provisions) requires 100 employees. Forty will now come from away, 36 will be name-hired, leaving only 24 employees hired in our traditional method: from the top of our list.

“Example 2: On a mandatory market recovery project, an electrician could be making one third the wages he is making now. This amount, however, might vary. An employer is entitled to the low offer made by ‘final offer selection’ for the life of the agreement, unless he decides to approach the arbitrator for an even lower wage package, which he is allowed to do.

“How does this bill impact on our members? It will definitely reduce the employment prospects for our older, infirm or partially disabled workers. It will also affect anyone willing to stand up for himself or his fellow workers on safety or a basic human dignity issue.

“Having served as your apprentice and, later, your partner, I can say that we approached the trade the same way. A job would come up, you then go to work. This job could be in Sarnia, Windsor, Detroit, anywhere. We do a good day’s work, maybe some overtime pay as well, and when the job is complete, we’re laid off and on to the next one. This work history description covers about one third of our membership. Now, with the predicted effects of Bill 69, fairness and equality will give way to cronyism and desperation.

“I wish I had better news for you as you enter the final year of your career.

Fraternally yours....”

1030

I stated earlier that I don’t believe the government is going to stop at Bill 69. My suspicion is substantiated by the government-imposed review of the progress, if you will, of this legislation at the end of December 2001. I believe that the mandatory market recovery portion of Bill 69 is flawed and cumbersome for the same reasons included in the 28-page brief submitted to you by the provincial building trades. I also believe, in my more cynical moments, that there are many contractors who

have a genuine interest in the failure of this market recovery program, especially if its failure would mean that they would get double-breasting as a result of the 18-month review. This will become one of management’s arguments for further amendments at that time. Labour will be unhappy with the obvious concessions that will be required through mandatory market recovery, and I believe there will be open hostility in the field over the invasion of our hiring hall procedures as well. So what better reason for further amendments to the Labour Relations Act? Both labour and management are unhappy. It will make great press.

Since construction is an esoteric business—and regardless of what anyone says, if you don’t work in it, you don’t understand it. The passage of Bill 22 in the mid-1970s—I think it was 1978—lent itself as a good example of this. Although no real parallel exists in the industrial sector, let me use this example of the absurdity of the mobility and name-hire aspects of Bill 69. A plant manager at the Ford engine plant here in Windsor wants to staff a new assembly line and they require 100 people to do it. He decides to bring in 20 employees from Ford Talbotville, 20 more from Ford Oakville, and then, because of a previous plant closure locally, he contacts the local CAW union office for some more help. The employer is told that yes, there are unemployed, trained workers available, but they must be hired by seniority. The plant manager says: “Stuff it. I’ve got Bill 69 and I’m hiring the 36 people with the least seniority. Then you can send me your top 24.” I don’t think this would fly in Motown, not with the autoworkers and not with anyone else. Construction is the same way.

You heard my letter to an older member. What I didn’t tell him exactly was that possibly he, and certainly others, will not be able to earn a living or finish their careers in the construction industry. You’ve also heard me say how bad the effects of Bill 69 will be overall and how I believe that, with the repeal of section 1(4), inevitably it will be worse. As you know, the construction employee bargaining agents from the province have agreed, with some exceptions and certainly some reservations, to the principle of Bill 69. But if there is a competitiveness problem with a non-union, let’s forget any type of new legislation and focus on the existing. The Trades Qualification and Apprenticeship Act covers all matters pertaining to apprenticeship; for example, job duties, ratio of apprentices to journeymen etc. The Occupational Health and Safety Act covers the use of qualified, licensed individuals to perform certain tasks in the workplace, such as electrical work. The laws resulting from these two acts are not being enforced. There is some confusion as to what ministry polices what, but primarily the problems are (1) not enough enforcement officers, and (2) reluctance on their part to act upon these violations.

I accompanied a Ministry of Labour enforcement officer to an institutional job site in Sarnia a few years ago. I observed several teenagers stringing electrical cables on this school site. When they saw the blue hard hat of the



MOL officer, they dropped their electrical equipment and picked up some brooms. No doubt they'd been coached. I later discovered that none of them was a registered apprentice for any trade and two of them were on work experience from high school. They weren't being paid at all and, as a matter of fact, my tax dollars were paying their WSIB premiums so they could work for free. These are real competitiveness issues.

So, in conclusion, please discard Bill 69. Do not eliminate section 1(4) and do enforce the laws of the province already on the books. We can compete with anyone on a level playing field due primarily to our pride, as well as our education, skill and training. Thank you.

**The Chair:** Thank you, Mr Dowding. We have time for one question from each member.

**Mr Christopherson:** Thank you very much for your presentation this morning. You of course raised the issue of the process of going to an arbitrator. The sections affected are 163.2, 163.3, 163.4 and 163.5. Earlier I had discussions with the minister about whether or not 163.5 was going to allow amendments to some of the things that are supposedly saved from being changed by this law in terms of your collective agreement. Today they still haven't got an answer, although we have had a number of unions come forward with their own legal opinion that the 40% and the 60% are not the ceiling, and indeed that may be the floor. By virtue of your raising that, I have a question. I guess I'd go through you, Chair, if I could, to the minister or to the PA, whoever is doing this. Have you got a position with regard to what your legal people are saying?

**Hon Chris Stockwell (Minister of Labour):** Do we allow questions here?

**The Chair:** Mr Gill, I believe that question was asked last week.

**Mr Gill:** Yes. The policy people are still trying to get back to us. I don't have an answer.

**Mr Christopherson:** This is nonsense, you know. Chair, thanks.

**The Chair:** OK. Well, if—

**Mr Christopherson:** I got my answer, and it's that answer that ought to scare the hell out of everybody in this room. The assurance initially was that 163.5—which says, "Every provincial agreement shall be deemed to include the following provisions...." That's where it outlines what is supposed to be the ceiling of 40% and 60%. That is not going to happen. It's not going to be protected. If it were, both the parliamentary assistant and the minister would be pounding the table, saying: "Christopherson, you're off the wall on this. It's very well protected." The fact that it has now been the better part of two or three weeks tells me that they're dragging their heels, hiding behind this answer of, "We've got to look into policy."

I would suggest that every labour leader in this room understand that this 40% and this 60% is not going to be the limit, that that can be changed by the arbitrator, as can your wages, your benefits, things that affect the ratio of journeypeople to apprentices. Everything is on the

line, the entire collective agreement, by virtue of 163.5 not being a guarantee of what you're going to have at the end of the day in your collective agreement.

I don't know whether your union or local has had that legal advice, but based on what I'm hearing here in my experience, you ought to be very frightened that your collective agreement can be further gutted beyond what assurances this bill says you're going to have.

**The Chair:** Mr Dowding, I'm not sure if that was a question, but you can certainly respond.

**Mr Dowding:** I'm not either, but it was an excellent response. I have had that legal opinion, David. As far as I'm concerned, this bill throws our collective agreement in the shredder anyway, and if we have any semblance of dignity or a livable wage, it'll be a coincidence.

**Mr Christopherson:** Thank you. It was an excellent presentation.

**Mr Gill:** Especially in Sarnia with the petrochemical industry, as you know, right across the border they can set up the shop anywhere they like. They can do the refining on both sides of the border. I think you referred to Bill 31 and the collective agreements that you went through. Doesn't it actually protect the workers in the sense that they have more jobs to do? Didn't that actually kick-start the petrochemical industry—building?

**Mr Dowding:** I'm not following your line of questioning.

**Mr Gill:** Did that not bring about several billion dollars in construction start-ups?

**Mr Dowding:** As a result of Bill 31?

**Mr Gill:** As a result of the agreements you had with the contractors?

**Mr Dowding:** Project labour agreement?

**Mr Gill:** Yes.

**Mr Dowding:** No. With the exception of some shut-down work, probably all the trades are operating between 30% and 50% unemployment. We think Bill 31 was something they managed to wrangle. They stressed it was urgent. There was a huge time factor and virtually nothing has happened as a result of it. One small project that had already begun, probably when we were speaking with you up at the Sault Ste Marie building trades, was already on the go before the project labour agreement was signed. There has been virtually no activity; some rumours, yes, but we've yet to see project labour agreements bear fruit in Sarnia.

**Mr Gill:** One of the things the Big Eight have certainly shown—

**The Chair:** I'm sorry, but I did say one question each. We're running out of time.

**Mr Duncan:** Back to section 163.5. Is it your view that the 76% from outside an area would be a ceiling or is it your view that the 60-40 is just a floor and that it could go higher than that?

**Mr Dowding:** I think that's the minimum. That's my view of it.

**Mr Duncan:** So you think it could actually go higher. Our numbers say and one of the previous presenters



talked about 76%. Do you think it could go higher than that?

**Mr Dowding:** I think it's possible it could, yes.

**The Chair:** Thank you very much, Mr Dowding.

1040

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS  
CONSTRUCTION COUNCIL OF ONTARIO

**The Chair:** The next presenter is Mr John Pender, secretary-treasurer, International Brotherhood of Electrical Workers Construction Council of Ontario. Good morning, Mr Pender.

**Mr John Pender:** Good morning, Madam Chair, Minister Stockwell, committee members. My name is John Pender. As you said, I'm the International Brotherhood of Electrical Workers Construction Council of Ontario executive secretary-treasurer.

The International Brotherhood of Electrical Workers Construction Council of Ontario, the IBEW-CCO, is the legislated bargaining agent for the industrial, commercial and institutional segments of the electrical trade in the province of Ontario. We represent approximately 14,000 unionized electricians, apprentice electricians, linemen, linemen apprentices and communications electricians in 13 local unions across Ontario.

The IBEW-CCO wants to make it abundantly clear that from the very beginning of the industry talks, which commenced in December 1999, support for any changes to the Ontario Labour Relations Act by our organization hinged on the understanding that all contractors, whether they be general or subtrade, will remain bound to their collective agreements and subsection 1(4) of the act would remain intact.

The IBEW-CCO has been cautiously supportive of these invasive and potentially destructive changes being put forward under Bill 69 for only one reason. Hanging over our collective heads is the threat that the alternative will be the employers' position. I quote from the employers' brief, the Ontario Coalition for Fair Labour Laws, dated December 1999: "The desirable solution is for the government amend the Ontario Labour Relations Act to exempt ICI construction companies from section 1(4) of the act."

The effect of this change would be allow double-breasting. The Ontario Coalition for Fair Labour Laws and certain employer groups have stated that the current method of province-wide bargaining places them at a competitive disadvantage in some regions or sectors of the province, which may result in unionized contractors being unsuccessful when bidding against non-union companies. These employers are of the belief "that improving and modernizing construction labour relations requires changing labour laws so that there is a fair balance of power between the employers and unions in the ICI sector, and from this change will flow collective agreements which will allow unionized companies to compete with non-unionized ones."

The employers are telling you that province-wide bargaining is the reason we are in this state of non-competitiveness. Yet everybody in this room knows, or should know, that province-wide bargaining is the result of an intense lobby in the late 1970s of the government of the day by construction employer groups, not unlike the groups that are lobbying for change today. The system of bargaining that was a panacea to the woes of the construction industry then is now the cause of their financial demise in the marketplace of today.

So I caution this committee to not accept everything that the employers have put forward to them as being the only solutions. I would like to refer to the bill and give you our perspective, a union perspective, that takes into consideration our fears and our concerns.

Subsections 163.5(1) and (2): Mandatory default hiring hall provisions allow employers mobility up to 40% of the total number of employees from any local or locals in the province required for a project anywhere in Ontario. I've heard the discussion this morning, whether it's a ceiling or whether it's a minimum. It seems like it's up for grabs. I will talk about the arbitration process a little later. The employer basically will be allowed to select or name-hire 60% of the employees from local unions in whose geographic jurisdiction the work is performed. For example, in Windsor on a job requiring 100 electricians, 40 electricians could come from one local or a combination of locals in the province. Local 773 Windsor would supply 60 electricians, of whom 60%, or 36, would be name-hired from their out-of-work list. In total, the employer can name-hire 76 out of the possible 100, or if you have 10 employees on a job, they could have 7.6%. I guess that's one-sixth of a person.

The view of the IBEW-CCO is that this process gives the employer the right to name-hire the same individuals for all their projects across the province and results in an unfair advantage of some members over others. It will create two economic levels in the province among the workers—the haves and the have-nots. It will pit member against member, local against local. It will create an imbalance in hiring within the province. Smaller communities and smaller locals will suffer the most.

I give you an analogy here of a local that is—and we have one. Sudbury, for instance, is probably suffering about 40% unemployment. How do you think the members of that geographic area are going to react? How will older members, members who have been injured, members who have taken on roles of steward, health and safety representatives fare in this selective hiring process? Our opinion is very straightforward: These individuals will be blackballed and subsequently they'll become a subclass who will never be selected by an employer. The end result will be a system of hiring that's based on favouritism and nepotism rather than a fair and equitable distribution of job opportunities voted on and approved by local union members.

Section 163.2: This section gives the employers the right to seek amendments to virtually every clause in our collective agreements, save statutorily regulated holidays



and hours of work. Employers can seek exemption from wages, overtime, shift differentials, benefits—our benefit packages, which means health and welfare and pensions—travel, room-and-board allowance, requirements respecting the ratio of apprentices employee by an employer, a provincial employer bargaining association—and there's a lot of discussion we'd like to have on this at some point.

In a designated regional employers' association, the bargaining agency may apply for amendments for all work anywhere in Ontario providing at least some of their members carry on business in that particular geographic area. For example, a Toronto contractors' association may apply for amendments to any local union appendix in the province provided that some of its members perform work in that area.

The view of the IBEW-CCO is that this section severely undermines the collective bargaining process. Employers will have no incentive to bargain in good faith as they have an avenue to seek changes to the collective agreement outside of negotiations. In effect, this section of Bill 69 renders the collective bargaining process meaningless.

Members of the committee, I implore you to look at this section with great care. I suggest to you the ramifications of an impotent bargaining process will set in motion an era of labour unrest unprecedented in this province since the 1970s. There will be strike after strike after strike. The end result will be an industry in chaos, the very thing that nobody in this room wants.

Section 160.1: This section allows unions to voluntarily abandon their bargaining rights for all or part of the province with respect to an employer.

The view of the IBEW-CCO is that this section of Bill 69 was created to allow the general contractors, with the union's blessing, to abandon their labour agreements. For the record, I want to state unequivocally that the IBEW-CCO will not voluntarily be releasing any contractor or general contractor from the existing collective agreements under which they currently operate. Further, we must clearly state our objection to any government action that will release general contractors from signed collective agreements, whether it's inside board area 8 or across the province. Taking this direction would put the Ontario government in the position of nullifying existing signed collective agreements and we do not believe this is the correct role for any government.

Section 163.2: This section gives employers, and I would think that includes the general contractors, the right to seek amendments in our collective agreements. Members of the committee, the general contractors should have to demonstrate a significant competitive disadvantage. They should not be treated any differently than any other employer. They have petitioned this committee, representative after representative, that they should be treated specially, that they should be allowed out of their labour agreements with the unions. They say they are uncompetitive. There's a process in this bill that every contractor is going to have the opportunity to use

and that process is an arbitration process. If this bill does go through, the general contractors that want out of this thing should have to go through the same process.

**1050**

Section 163.3 deals with a very complicated arbitration process. For the applications both parties, the union and the employer, are entitled to put forward a final offer with respect to provisions of the collective agreement the employer association wants to amend, along with written submissions. But we're hearing more and more about the regional employer's organization. We're hearing that there could be more than one brief submitted to an arbitrator; it could be multiple. We really think this is a cumbersome thing; we think this process is doomed to failure. The appointed arbitrator is not required to hold an oral or electronic hearing unless he or she feels it's necessary to resolve an issue arising out of the submissions. The only relevant factor the arbitrator is to consider as far as we're concerned is not whether the employers' organization members—they just have to demonstrate—if they say, "We're at a competitive disadvantage," does that mean they're paying too much pension to an electrician or to a sheet metal worker and maybe if we knock the pension benefits down we can be more competitive because the non-union people don't do that?

The arbitrator wants to determine if there is a competitive disadvantage, and if so, determine whether that competitive disadvantage would be removed if the collective agreement were amended in accordance with the employer's application. He'll only take one. It'll be baseball arbitration, so he's going to either select ours or he's going to select the employer's. I don't know whether he's going to select one of three briefs from the employers or one brief.

The view of the IBEW is that this section is designed to force unions to make concessions. There's no stipulated criteria as to what constitutes a competitive disadvantage. Therefore, any or all clauses in the collective agreement will be susceptible to arbitration. The issue of selection of an arbitrator is also of grave concern to our organization. If an arbitrator is not agreed to by the parties, either party may make a written request to the minister to appoint an arbitrator. Should an employer organization purposely not agree to an arbitrator for whatever reason, the minister shall appoint. This raises an issue of an arbitrator's experience specifically in the construction industry, and their qualifications.

What further taints the process is an apparent disdain for current arbitrators, basically asserting that they are biased in favour of the unions. You have heard this stuff at this table also.

The process outlined in the section of Bill 69 will be costly and time-consuming for both the employer and the unions and will require industry studies, briefs and experts such as economists. There can be no doubt as to what this arbitration process will do. By design, it will lower the wages and conditions of the union construction worker in one form or another. That part of the arbitration process is obvious.

**The Chair:** Thank you very much, Mr Pender. We have time for questions.

**Hon Mr Stockwell:** Thanks for coming. I appreciate the input.

The question that begs to be asked is, if this truly is Armageddon and the whole process breaks down, in those collective agreements in certain trades in the construction industry that have enabling, that have mobility, that have these kinds of clauses incorporated and in fact used, why hasn't Armageddon taken place in those trades?

**Mr Pender:** I speak for the IBEW. Our system is based on 13 local unions. You have some provincial locals in this province that are completely different from our set-up. They have provincial mobility with their members, who can work here and there. We were never set up like that. We have 13 pension plans, 13 health and welfare systems. If you want to talk about, say, mobility, how is that going to affect pension plans in Windsor? Say we have a job of some significance down here, because they do have fairly large projects, 100 people. If the mobility was used to the maximum the way it is written right now and there's a potential for name-hire of 76 people out of that 100, by having that kind of selection process, the pension, health and welfare in Windsor won't take in the money that it would if they were supplying the manpower to that job the way the system is set up now. The benefits will not go to that local. Say the contractor is from Toronto; those benefits will go back to Toronto for 40 people.

**Hon Mr Stockwell:** It's got to be more than a pension issue. You could work that out, frankly, internally and determine exactly where the work was done and applications could be made. It's got to be more than a pension issue. These people have been working under these collective agreements for a number of years. They have enabling, they have mobility. They've been using it very advantageously. The best argument you have is it's a pension issue?

**Mr Pender:** I'll tell you, pension is a huge thing to our people.

**Hon Mr Stockwell:** I'm not saying it's not.

**Mr Pender:** It's health and welfare benefits. Our plans are based on contributions from the people working in the industry. If you cut the number of people working in the industry by 30% or 40%, tell me how that affects the pension plan for a member. If it's a defined contribution or if it's a defined benefit plan, it affects that guy's end result in his pension in the long term. Those are things that concern us terribly. The last few years, with this economy being in the toilet the way it was, we've seen our work situation just drop right off, from 1989, almost 45%. In 1995, things finally bottomed and people started to go back to work. A lot of people lost a lot of their benefits, pension, contributions and everything. This looks to me like it's a very important issue.

**Mr Duncan:** At the beginning of your presentation, Mr Pender, you referenced again the discussion around 163.5. I just want to make sure I understand your

position. Is it your position that the 60-40 is a floor or a ceiling?

**Mr Pender:** That's a matter of conjecture here. I'm just taking it at face value and my take is it's 60-40. Whether the arbitrator can do something about that or not is yet to be seen, and it is in fact going to be an arbitrary decision. That's going to raise our concerns even more.

**Mr Duncan:** One other question, if I might. You also made a comment, and I think I got it down properly, that, "Labour unrest will be the result and it will be—"

**Mr Pender:** Province-wide bargaining was put in place in the mid-1970s. The contractors were concerned about the number of strikes around the province. Like Windsor would be on strike for a while; they'd get something settled. London would go on strike; they'd get it settled. It would whipsaw around the province. So their cure-all with this was: "Let's have provincial bargaining. We'll bargain at one table, all the locals, all the trades at one time every three years. That will solve the problem." Now, the situation is that province-wide bargaining is not working. It has made us uncompetitive because they're saying we can't deal with issues. Some of them are saying that. I'm not saying I agree with them on it, but some of them are saying that.

And yes, it will lead—say an arbitrator comes in here and guts the collective agreement on the job, drops the wages by five, six bucks an hour, the whole nine yards, increases apprentice ratios so that journeymen aren't on the job, hours of work, shift premiums etc. What are these guys going to think about that? They're not going to think too highly of it. When their contracts come open for negotiation again, there are going to be tough negotiations.

**Mr Christopherson:** Thank you for your presentation, John. It's good to see you again.

First of all, the minister and the parliamentary assistant have raised on many occasions this business that some of the trades already have a high degree of mobility so why is this such a huge problem? As the minister has just said, why is Armageddon facing us? Somebody earlier said, if you don't work in this industry, you don't understand it, and I think there is a lot to that. No matter how much we all try to grapple with it, it's a very complex part of our economy in the province.

But from what I've been able to root out, different trades require different mobility. Depending on the trade itself, that can have a big impact on whether or not you have a high degree of mobility or a low degree. Whether there are strict rules around taking from the list at the hiring hall or a little bit of flexibility really does depend in large part on the kind of trade that you're performing.

Also, it's my experience, having sat at the bargaining table for years myself on the industrial side of things, that often you trade things in negotiations in a different way depending on the makeup of your membership, whether they want a little more money here, a little more money there, you want language around grievance procedures. You trade off. To isolate one part of a provincial agreement and say: "There, they've got that, so therefore



everybody else should have this as their maximum; this is now what it's going to be," is not fair, because it doesn't take into account all the years of negotiation where other things may have been traded off. I really don't think that's an argument that holds when the government says, "This justifies why we can make these changes, because some of these trades already have some of these rules." It just doesn't wash.

**1100**

I want to come back to this business of the 40% and 60%. Again I want to emphasize that I think it's extremely important to note that the government is not, after almost three weeks of having all their bureaucrats and legal people look at it, prepared to come forward and say that the 60% and the 40% is the worst that can happen to you. They've removed the word "significant" from talking about competitive disadvantage. The minister says they can't get a legal definition of "significant" that works. I find that hard to believe, I really do. You can always find some language that everyone agrees with. You can make a notation in the preamble about intentions. I think it really is meant to leave this thing wide open.

I've got to tell you, if that's true, then paragraph 3 in subsection 163.2(4), which says you can make amendments to "restrictions on an employer's ability to select employees who are members of the affiliated bargaining agent," tells me that an employer can go in and make an argument to an arbitrator that the 40% leaves them with a competitive disadvantage, that the 60% leaves them with a competitive disadvantage, and if they're successful, you don't have a provincial agreement. You really don't have a provincial agreement if the other things they can go after are wages, overtime, benefits, travel and accommodation, the ratio with journeypeople and you lose your seniority rights in the union hall. What the hell is left after that? Absolutely nothing. You know what? I don't think the government would have a problem with that at all. It's something I think you ought to be very focused on. We're going to be seeking, at the very least, some significant amendments in that regard to at least hold them off to where they say they are in terms of the damage being done. I don't think so. I think that once we start getting precedent on this and jurisprudence, we're going to find that those collective agreements are just ripped wide open.

**The Chair:** Thank you, Mr Pender.

#### WINDSOR CONSTRUCTION ASSOCIATION

**The Chair:** The next speaker is Mr Jim Lyons, executive director of the Windsor Construction Association. Good morning, Mr Lyons.

**Mr Robert Troup:** Mr Lyons couldn't be here today, unfortunately. My name is Robert Troup. I've been asked at the last minute to come and speak here today since Mr Lyons couldn't be here. I'm the past president of the Windsor Construction Association. I'm the president of Trojan Interior Contracting, a long-established company

which has been in business for three generations in this area. I'm the president of the Windsor Wall and Ceiling Contractors Association. I'm the chairman of the industry fund for the Windsor Construction Association, which takes in all the benefits for the fellow trades. I'm a director of the Acoustical Association of Ontario, a trustee for the benefits plan for the carpenters' Local 494, and I'm also a trustee for the apprentice council for the Essex county area.

We sent this bill out to our members when we received it a few weeks back. Unfortunately, we couldn't meet the last time you were in town here. I guess there was a mix-up of times and dates. I was in Toronto and couldn't do both at once. I really can't speak to the facts of every little issue that is in this bill. All I can tell you is that we sent this out and received very little feedback from our members. Maybe they don't understand what's involved here or how much it really changes our contracts as they are today.

The contractors I deal with, which is basically the carpenters' union, finishing trades and civil trades, have enjoyed a very good relationship with the labourers' unions in this area. We probably enjoy a 90% union base here. We've had very good relations, targeting projects, working on different projects together, to ensure that our union people are working. Our unions here have worked hard on training programs, giving us a skilled base to work with, and we've enjoyed working together.

One of the sections that bothers us is section 1(4). If that was ever removed, that would basically wipe out the unionized subcontractors—which I am—as they're known today. It would make the field wide open. It really doesn't, that I can read, say what's going to happen to unionized contractors if they open up double-breasting or if non-union companies could just open up all over the place with no section that they can go back on to say that there was a union contractor before. We would be basically wiped out virtually within months.

I know there was a submission by McArthur Verechagin, the lawyers, and that was sent on May 17 by the Hamilton association. We've looked at some of that stuff.

The other thing is mobilization. I can only speak as a contractor in this area. We would certainly want to protect our people who live here, eat here, buy their groceries and spend their money here. We'd like to see our people employed instead of—we run into problems with large contractors coming into town and basically coming in with a large force which would make it difficult for our people to work.

That's basically all I have to say. Unfortunately, I wish I was more prepared today, but I was only put in this position this morning.

**The Chair:** Thank you, Mr Troup.

**Mr Duncan:** Thanks, Bob, for your presentation. We've had a fairly healthy five years down here. Would that be a fair characterization?

**Mr Troup:** Yes, we have.

**Mr Duncan:** We, historically in this community under the existing regime, have had very good labour relations. Did I understand you correctly in your comments there?

**Mr Troup:** What I can comment to, extremely good relations.

**Mr Duncan:** As you know, the government has not moved on section 1(4) directly, but I wanted to explore with you a little bit more—you indicated you didn't have a lot of feedback from your members. Your members are mostly small subcontractors locally. Would that be accurate?

**Mr Troup:** It's a mix of subcontractors, contractors and suppliers.

**Mr Duncan:** I noted in the presentation before you, and I don't know if you were here, Mr Pender from the Ontario council of the IBEW indicated that he foresaw increasing labour unrest as a result of these changes. You've indicated we've had fairly stable labour relations in your sector now for a number of years. Would your members be concerned about that? Would they be concerned about a legislated antagonism that's being put in? There was fear of greater labour unrest.

**Mr Troup:** Nobody wants labour unrest. I think we would all like to go to work every day and collect a cheque. I'm sure nobody wants to be standing on the lines. That group is a different group than what I deal with, and their needs could be different than what mine are. This is such a large change. It's basically the largest change we've ever had since the provincial negotiations were put together, and I think it's going to cause some difficulties.

**Mr Duncan:** It's going to cause some difficulties. Thank you very much.

**Mr Christopherson:** Thank you very much for your presentation. You did state that generally your association was in favour of the bill?

**Mr Troup:** All we do is put it out to everybody, and there was no response. I would say that at this point there has been no response or no feedback pertaining to it.

1110

**Mr Christopherson:** To pick up on submissions that we've had here and in other communities that indeed there will be major labour unrest, that there are enough disgruntled locals and communities who are refusing to accept the premise of Bill 69, that there are going to be major problems, is it fair—well, let me just ask you straight out. If your members knew directly that there was the real possibility of major labour unrest as a result of this being imposed and all the changes that are contained in here, do you think they would pay a little more attention and be a little more concerned about it, or is it your sense that they would like the changes so much, because they do benefit management, that they'd be prepared to withstand that? Your own opinion on that would be helpful.

**Mr Troup:** This will be my opinion. I can't speak for the rest of the province or say what's going to happen in the rest of the province. I can speak to this area. I think that our local BAs, the presidents of the unions we deal

with and the contractors in this area have always enjoyed a good relationship. The way it looks to me, this bill is basically turning everything back to local negotiations again, other than a few things that would be in the provincial agreement. I think in this area, with the relationship we have, we're not going to have that many problems, and I don't see it changing much.

**Mr Christopherson:** If I could point it out to you, though, one of the things that will likely happen is that both employers somewhere and unions somewhere are going to spend a ton of money on legal fees in terms of going through this whole arbitration process, and as there are decisions made and precedents set in terms of what an arbitrator can do, the kind of measures they were prepared to take in the context of the competitive disadvantage that's being put forward by the employer, those decisions will have impacts on every single community by virtue of local arbitration processes that take place.

I have to tell you I'm a little fearful that your members, who think they can continue to enjoy this excellent relationship and be isolated from the rest of the province, are going to be very shocked to find out that there are things going on across Ontario that have a major impact here. In terms of labour unrest, if it happens in other communities, and we also have good relationships in some of those communities, I've got to tell you that it's inevitable that you're going to face the same sort of thing here. What's going to happen is that you won't be in a very strong position to go to the government to say, "Do something about it," because when you had your chance to come forward you said: "Well, we don't have a lot to say. We're going to let it go by."

I would strongly urge you to point out to your members that Windsor will be no more isolated from this than my own community of Hamilton, or Sudbury or anywhere else in the province, and that nobody in the construction industry has the luxury of saying, "Bill 69 doesn't affect me." Where you've got good relations, I think even employers have a lot to lose, maybe even more so than in other areas where you've got an existing antagonistic relationship anyway. I would urge you and your members to be very clear on the implications for your community, because I think a lot of that serenity that you may feel you have now is going to get blown apart if there are problems elsewhere in Ontario.

Thank you very much for coming today.

**Mr Gill:** Just a brief statement; no questions, Mr Troup. Thank you for being here on short notice. I'd certainly like to thank the audience here. They've taken the time to take part in this democratic process. I think it's good to be here.

One of the things you mentioned which I just want you to elaborate slightly on was that since 1995 the industry has been doing better and there have been more jobs.

**Mr Troup:** Since the casinos were brought in in this area and with the investment by the Big Three, the city of Windsor has enjoyed a large increase in the workforce.



**Mr Gill:** By the way, 1995 was the year Mike Harris was elected.

I'm not sure if you were involved right from the start in this process. One of the things the minister said on the very first day—the audience is here, and I want to put it on the record because some of them have not been there—in the first meeting was that the big contractors or anybody—he was very clear that 1(4) may not be delivered to them. I don't know whether you're aware of that, so I wanted to put it on the record.

**Mr Troup:** I'm aware of that.

**The Chair:** Thank you, Mr Troup, for coming in this morning.

The next speaker is Mr Matt Mitro, Up-Rite Door Ltd. Is Mr Mitro here?

*Interjections.*

**Mr Duncan:** Madam Chair, while we're waiting, for the minister and my colleagues, you're sitting in Mackenzie Hall, which was built by Canada's first Liberal Prime Minister, Alexander Mackenzie, who, interestingly, was a mason by profession and a bricklayer. This was restored by the city of Windsor with some help from the province of Ontario back before the darkness descended. It serves as a community venue and we're very proud of it. I just thought that while we're waiting I would share a little bit of the history of this particular facility with you. It used to be our courts as well.

**Mr Gill:** It looks like Mr Mackenzie was a good mason.

**Mr Duncan:** It's still standing all these years later.

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 773

**The Chair:** It looks as if the next group is here, so we can switch the order while we're waiting for Mr Mitro to arrive and go to Mr Sam Riddick, International Brotherhood of Electrical Workers, Local 773. Good morning, Mr Riddick.

**Mr Sam Riddick:** Good morning, Madam Chair and committee. My name is Sam Riddick. I'm the business manager for IBEW Local 773 here in Windsor. I come here today representing close to 500 men and women who work in the electrical industry in our community.

Our local union is opposed to Bill 69, the Labour Relations Amendment Act, in its entirety. This proposed legislation is the most offensive and invasive attack on unionized construction workers that has ever been introduced in our province.

Currently, the members of IBEW Local 773 perform work under the terms and conditions of our negotiated collective agreement. I've got a copy here. I would like to hold this up for everyone to see. This is a document that's been agreed to by ourselves as the union and by our contractors. The contract is exactly what it says it is: It's an agreement between the union and our employers. This agreement was entered into freely by both parties and will remain in effect until April 30, 2001. At that

time, the IBEW and our signatory contractors will negotiate a new collective agreement.

The provincial government is prepared to introduce invasive legislation, Bill 69, that would effectively render our negotiated collective agreements meaningless. Bill 69 will provide a vehicle to change our collective agreements without our membership having a vote to ratify these changes. This is very important because the clauses and the terms and conditions contained in this book were voted on and approved by the membership of our union and the employer groups that we deal with. It's a signed agreement.

#### 1120

Following are a few of the proposed changes that Bill 69 would allow for, and some of this will be a little bit repetitive but I'll get through it here.

**Mobility:** Currently our negotiated agreement allows for mobility of one electrical representative. Bill 69 would allow employers up to 40% of the total number of employees from any local or locals in the province required for a project anywhere in Ontario.

**Hiring hall:** Currently, our negotiated collective agreement allows employers to name-hire foremen. Bill 69 would allow for employers to name-hire 60% of the employees from the local union in whose geographic jurisdiction the work is performed. We've heard the example before, but I think it bears repeating: On a project in Windsor, Ontario, requiring 100 electricians, 40 electricians could come from any local in the province or a combination of locals. Local 773, our local union here in Windsor, would supply the next 60 electricians, and out of that 60, 60% of them would be name-hired by the contractor from our out-of-work list. In total, the employer would be able to basically name-hire 76 out of a possible 100 electricians on the job site.

This process gives the employer the right to name-hire the same individuals for many projects across the province and results in an unfair advantage of some members over others. It will create a couple of different economic levels in our province. We've spoken about the haves and the have-nots. It will be the people who have a job and those who have not a job. This type of proposed hiring procedure will create dissension among our ranks. It will pit members against members and local unions against local unions. It will create an imbalance in hiring across the province, and the smaller communities and smaller locals will suffer the most.

It's very difficult to imagine an area in the province that's been mired in unemployment, they haven't had any work, and a company would bring in 40% of the crew to do that job in that area and take away jobs that people living in those communities would traditionally perform. Imagine the effect it will have when the local tradesmen are forced to sit at home and people from outside of their communities are brought in to perform this work.

This legislation will discriminate against older members, previously injured members, people who have taken on the role of union stewards and people who have been health and safety representatives. These people will

ultimately be blackballed, and subsequently they will never be hired by an employer. They won't be selected or name-hired in this system.

The end result will be a hiring system that's based on favouritism and nepotism. There will be an inequitable distribution of the job opportunities, as opposed to the system that we currently employ that has indeed been voted on and approved by the memberships of our local unions.

There are also provisions for modifying the collective agreement. Again, these are conditions that we operate under and that have already been agreed to by our employers and by the union. There are going to be modifications or a provision to allow for modifications of this document. It will allow the employers, through an extremely complicated arbitration process, to seek amendments to wage rates, overtime pay, shift work, benefits, travel pay, room and board allowance, ratio of apprentices to journeymen and many more things.

If nothing else, Bill 69 severely undermines the collective bargaining process in the province of Ontario. Our employers will no longer have a reason to bargain in good faith with us because there will be a mechanism in place that will allow them to seek modifications to our agreement at any time. Bill 69 will make the agreements we have negotiated freely and in good faith with our contractors meaningless.

The ramifications of a bargaining system like this, as has been spoken to before, could only create labour unrest, work stoppages and strikes. I believe it will destabilize the construction industry potentially across the province. The union members will be forced to take action to win back the conditions and wages that they've worked for the last 50 to 100 years to achieve.

There's also a section in Bill 69 which would allow unions to voluntarily abandon their bargaining rights for all or part of the province with respect to an employer. This section of the legislation appears to have been created to allow union general contractors to abandon their labour agreements with the blessings of the unions. I'd like to make it clear to the panel that our local union, 773 in Windsor, will not voluntarily release any contractors or general contractors from agreements we currently have with them. We strongly object to any government action that would release contractors from signed collective agreements.

I have reviewed just a few of the proposals of Bill 69. Employer groups have approached the government and asked them to address our collective bargaining process in an attempt to address what they would put forward as a competitive disadvantage, that they're at a disadvantage to compete with other contractors.

I believe that under the guise of the issue of market competitiveness, employer groups are attempting to undermine our collective bargaining process and embark on a well-orchestrated attempt at union-busting in Ontario. This approach ignores any and all elements of management responsibility for unsuccessful tendering and predictably requires the union tradesman to bear the

entire cost of contractor mismanagement and/or disinterest in certain sectors of construction work.

Employer groups will talk about wanting to be able to bid work on a level playing field. As trade unionists, we would agree wholeheartedly with that. We would hope to elevate the standard of living of the unorganized tradesmen to the current level of wages and conditions that we as union members enjoy. On the other hand, Bill 69 will attempt to level the playing field by lowering our wages and conditions. Organized and unorganized contractors will immediately be thrust into a race to the bottom. They'll be embarking on a bidding war that will start a downward spiral. Union tradesmen and non-union tradesmen will eventually see their wages lowered to a point where it will be difficult for them to provide a decent standard of living for their families.

In conclusion, I would like to say that IBEW Local 773, Windsor, stands in opposition to Bill 69. Our local union is opposed to any legislation that would serve to open up our negotiated agreements and undermine the collective bargaining process we presently enjoy in our province.

**The Chair:** Thank you, Mr Christopherson.

**Mr Christopherson:** Thank you for a very encompassing presentation.

A couple of things: First of all, I haven't yet mentioned today—and I think again it's important to put everything in context and to be fair to the provincial labour leaders who were in the position of being forced to the bargaining table. This labour movement in Ontario had a gun put to its head: "Either renegotiate this contract in a way that we accept and that your employers accept or we will pull section 1(4)."

So in the context, we always need to remember that the people at the bargaining table were not faced with status quo versus, "Is Bill 69 good?" Let me point out that on May 1 in the Legislature, after I said, "The minister would have us believe, now that we're debating this bill, that it's such a wonderful thing for the workers," the parliamentary assistant, Mr Gill, said, "It's the best thing that ever happened."

Let's recognize that although the government wants to pretend that this is the best thing that ever happened, this is not a choice between status quo and Bill 69. This is a question of Bill 69 and all it contains or the elimination of 1(4) and what that means for workers across the province. I think it's fair to set that out, to show how we got to this point.

1130

You outlined the six issues on page 3—and I know I'm beginning to sound like a broken record, but that's the only way you get messages through in politics: to say it over and over and over. One of the things that is not mentioned and needs to be—and I'm not chastising you for not seeing it because it sort of came at us from a side view. But for the benefit of those who are here today, on this whole business of having the contracts amended, this is what it says; this is the law as proposed:



"163.2(1) An employer bargaining agency," that's the contractors, "that is a party to a provincial agreement," the one you held up, "may apply to an affiliated bargaining agent," the union, "that is bound by that agreement to agree to amendments to the agreement which would apply to any of the following ... ." They go on to list things, including, in 163.2(4)3, "Restrictions on an employer's ability to select employees who are members of the affiliated bargaining agent."

Until we have the minister say definitively that the legal interpretation is that the 40% and 60% are absolute maximums, or he offers to amend the bill, all this 40% and 60% that everybody sees as a nightmare is only the beginning of the nightmare and it could get worse.

Something else that hasn't been said since we've been here in Windsor and needs to be said is about this business of changing the ratio of apprentices. This business of changing the ratio in the context of a document that talks about competitiveness is, in my mind, way out of line. The whole issue of apprentices is the standard of professionalism that has allowed our trades to be among the best in the world, not just in Canada and not just in Ontario but in the world. If we start watering that down based on competitive issues, we're not only going to do damage to the income and quality of life of your members, but it seems to me that we're going to do some serious damage to the long-term professional standards of all of the trades that we're all so proud of.

Am I seeing this correctly in terms of the damage that can do to the long-term professionalism of your trade?

**Mr Riddick:** Absolutely. It speaks to the issue of leveling the playing field that I touched on briefly.

As a union member, in dealing with our union contractors we adhere to the provincial legislated ratios of journeyman to apprentice. It's a sliding scale; we could go through it. That's what we put out to the workplaces and to the jobs.

We argue, and the point has been brought up previously this morning, that if these laws were enforced with a little more authority—this is not necessarily the case that occurs on job sites that are being performed by non-union people. Indeed there's a situation where people fudge, to put it politely, on the apprenticeship ratios and rules. Arguably, there's lots of work that's performed by one or two tradesmen, six or seven people who are supposed to be registered apprentices, but it's not policed with enough authority and with enough zeal.

If indeed that were the situation, it would serve to elevate the wages and the conditions of the non-union people up to the union tradespeople in that they would have to operate under the same guidelines. In essence, instead of doing that, we're considering lowering the union standard to make the level playing field. In doing so, people will find that there will be more and more work performed by people who don't have the qualifications of a journeyman tradesperson, the experience and the expertise.

*Applause.*

**The Chair:** Ladies and gentlemen, I would ask you again—I know there are some new people here, but at the beginning I had said that the rules that apply in the House also apply in this committee. I will not tolerate any further outbursts. We'll have to clear the room. It holds up the committee and it holds up the delegates, and it's not fair on either. I would ask you, please, no further demonstrations.

Mr Gill.

**Mr Gill:** Thank you, Mr Riddick. How many members in your local?

**Mr Riddick:** We have about 500 members.

**Mr Gill:** How many of them might be on jobs today?

**Mr Riddick:** Probably the majority, 450, 475.

**Mr Gill:** This is basically the last day of hearings and one of the things that has come up a few times in the hearings, which I would like your comment on, are the generals saying to us that in certain areas, sometimes they can't get a subcontractor who's unionized to bid on a job; therefore they can't bid on a job. What is your feedback or opinion on that? What should they do in that case?

**Mr Riddick:** That would be an unfortunate situation. I would say, again, as being part of the union, it's not our business to secure work. We don't have the expertise to bid and try for projects and things like that.

I think that the general contractors bid and are aggressive on jobs that they want, that they would like to succeed on. I think by and large they shouldn't have too much problem getting sub-trades to go along with them to bid on the work.

**Mr Gill:** They've certainly said there's a problem because some of them don't bid and they say, "What can we do?"

Many times in my own riding, people have come to me, if they can't get a job, when you don't have enough work for people, and said, "If I can't get a union job, then I go out and work non-union." Do you have any comment on that?

**Mr Riddick:** That wouldn't be the case, to the best of my knowledge, in Windsor, Ontario. If people are members of our union, Local 773 in Windsor and they're performing electrical work for a non-union employer, they could be subject to charges through our local union and ultimately risk being expelled from the union.

**Mr Duncan:** Thanks then very much for your presentation. The minister referred earlier today to how there's already high mobility within your sector in a lot of areas. A number of your members have approached me and said: "Well, that may be the case and we've negotiated tough collective agreements but our experience is that the same people get chosen more often and it doesn't really open the process. It excludes certain people, inevitably those people who are activists in health and safety issues, comp issues and other such things." Would that be the experience you've had with your collective agreements?

**Mr Riddick:** I would think that would be an accurate description. If I could just comment briefly on that, it's been brought up that some different trades have mobility



across the province. There are local unions—I believe there are some in the Toronto area—that have 100% name-hire for allowing job solicitation and things like that. There are different rules and parameters.

The problem I'm having with all of this is that in those areas where unions have that type of system, at some point in time in this scenario, their membership, the people who have chosen to belong to these unions, who have had the opportunity to vote and to ratify that type of system—it will be a system that, for whatever reason, they've decided works for them or is at least palatable to them. In this scenario, it appears to me that there is not going to be an opportunity for the local union membership to decide the direction of their local union. It's going to be legislated by the government, or it appears to be heading in that direction, and that's what I find most distasteful about the whole situation. I could go on about different things, but that's the thing, the ratification by vote of members who have chosen by their own free will to be members of a trade union in our province and to elect and establish and negotiate agreements with the people that we deal with. That's where the violation is, right there.

**The Chair:** Thank you for coming this morning, Mr Riddick.

The next speaker is Mr Matt Mitro, Up-Rite Door Ltd.

1140

#### MR MATT MITRO

**Mr Matthew Mitro:** I direct your attention to the sheet that says "Presentation." That's basically the text of the remarks I'll make. I've also included a variety of packages that further explain what brings me here today. I'll be as brief as possible to try and get across the points that I believe need to be made.

Ladies and gentlemen present, my name is not Joe, but I am nonetheless a proud Canadian and Ontarian. I am Matt Mitro. I'm the manager of Up-Rite Door, a small business in Sarnia, Ontario. On behalf of our company, I have been campaigning and lobbying to reform labour law in Ontario for more than five years. This effort is needed due to the present sorry state of labour law, its interpretation and enforcement, especially as it pertains to the Labour Relations Act of this province.

There are those who would argue, including the present Minister of Labour, that this bill in fact addresses the problems I have been identifying, cataloguing, clarifying and proposing solutions for since the present government came to power. As well, this government cannot be said to have done nothing in the area of labour law reform, but I hope to quickly identify here today that they are again about to do something that is not going to realize their stated goals and objectives. Just like previous Bills 40 and 31, to name two, I submit that to continue tinkering using the above legislation is clearly a Band-Aid solution, a Band-Aid that won't stick, I might add.

Included in this package is a sampling of my most recent correspondence to this government in an effort to

brief the third new Minister of Labour under this government and to find out what direction would be taken under his leadership. I've also included a prefaced chronology of the events in our firm's history which bring me here today in an attempt to stop the arcane and grossly unfair events from plaguing our endeavors and those of other unsuspecting businesses and their employees. Finally, I have included a copy of a labour law reform paper that I circulated throughout the government in February. It was written to aid the process of understanding and to show what I, my family and colleagues believe to be some of the solutions to the present problems.

Since some of you may not read this material due to time constraints or lack of interest, I offer the following excerpt, a preface to what I call "our union story," to explain why we at our little company are upset enough to be spending yet more hours today pushing to get some worthwhile change implemented instead of trying to carry on with our business.

The following chronology, which is included in the package, charts the history of Up-Rite Door, which from its inception as a sole-owner-operator firm started by my father, Ernie Mitro, in 1969, grew to employ 10 people, plus its owners, by 1995. Since then, it has dropped to less than half of its 1995 sales, losing money consistently and continuously shrinking to just four employees. The company's future is very bleak and all of this downturn can be attributed to a focused attack by the ironworkers' trade union over the last five years.

The union is looking to extend its market share, using the provisions of Ontario labour law originally designed to protect union jobs legitimately established by the workers. Now these rules have been twisted to try and create union jobs where there were none to begin with and force business owner-managers to be bound forever to this union. Ernie and Mary Mitro, their sons Matt, Steve, Harvey, Mike and all of their offspring are now bound to use ironworker labour if they start businesses in the union's work jurisdiction. This jurisdiction seems to be ever-expanding.

We conservatively estimate the real dollar cost of this situation to have been about \$500,000 since the beginning of 1996. This is more than all of the company's after-tax retained earnings since its incorporation in 1979. I might add it's Ernie and Mary's retirement monies.

The story makes for interesting, if not sad, reading. One would expect this behaviour in a communist state, but this is happening to this company and thousands of others like it right here in Ontario, Canada. If changes aren't made, these practices will simply explode, for it is far easier for unions to increase membership through backdoor methods than by legitimate front-door organizing of one worker at a time.

In short, I'm here today because things aren't much better in the area of labour relations in Ontario than they were when this started for us, and we at Up-Rite are angry and frustrated that these glaring problems are again not being adequately addressed in this legislation. I'll



excerpt from a recent letter to Premier Harris to clarify our reasoning:

"Dear Premier Harris:

"Further to my last faxed memo of April 25, 2000, with copy attached of my April 20, 2000, correspondence sent to Minister Stockwell after the meeting he missed with my brother and I, I have the following observations, comments and questions.

"The day that I had sent the above letters, Minister Stockwell was standing in the House introducing the bill he and staff had put together months ago based on a solution suggested by organized labour and not supported by the business community or business organizations. Besides being frustrated that none of my efforts at communicating, clarifying and suggesting solutions to the problems have been taken seriously, I am among many involved in this issue who are extremely disillusioned by this legislation.

"Let me be clear. In its present form, and without supporting changes in the system that will implement it, this bill will do nothing it says it will and, in many ways, it will make the situation worse. One week ago"—and this was written on May 10—"at your well-deserved celebration of accomplishments to date, you restated: 'We are not the government. We are the people who came to fix the government.' I am wondering if there will be anything to celebrate at coming dinners if this type of solution is what your team now considers 'fixing government.'"

I asked that he please respond directly and let me know if he was still the man I voted for, the one willing to do the right thing for the long-term good of Ontario, not for the sake of political expediency.

"I remain hopeful that my efforts to date, and once again, are not a waste of time and that you and your government are still willing to make common sense decisions for people who are still waiting."

Now that I've qualified who I am and why I'm here, I'll attempt to specify where I see the problems in this legislation, and at the end I'd ask for those present from government to ask questions regarding the presentation, advise me where I'm wrong in any assertions I make and answer the questions I raise. If that can't be done here, I understand. Please feel free to get back to me in the near future at the addresses and contact numbers contained in the package. After all the unnecessary suffering of our firm, I believe the owners and the employees are at least due this.

The first concern I've raised I've titled "Good Law is Nothing without Intelligent Enforcement and Fair Adjudication." I would suggest revamping the mandate, policies and structure of the Ontario Labour Relations Board.

Let's say, for argument's sake, that I thought this bill was flawless and brilliantly written as a solution to all the legal problems it attempts to address. I'll be clear: I don't think that, but let's say I do for a second. I'll grant that it's attempting to cover some things. For example, paragraph 1, subsection 126(3), the amendment should

clearly take away our concern with succession by blood, as it seems to remove this link from consideration.

Paragraph 2, subsection 126(3) sets out that if the time an individual is key in one business is different from another business, then that length of time matters, their formal or informal management status before matters and the original business suffering a substantial loss upon this individual's departure matters. This should provide some solace, that I will not always be judged "key" wherever I go in the future.

Unfortunately, the current mandate, composition, practice and ideology operative at the OLRB, which I talk about extensively in the paper I've provided, in conjunction with its binding, non-appealable decisions, renders almost any legal wording change ineffectual, because other factors can be interpreted to achieve the desired result while eliminating the ability to argue the converse. For example, if blood doesn't matter, then the entire relationship of a client or prior affiliation in a new company would now not be relevant.

Just a quick straw poll here. On the committee, those with business or management experience in the past? Just hands up. OK.

**Mr Christopherson:** Is this a pop quiz?

**Mr Mitro:** It is. Those who have had direct experience with the Ontario Labour Relations Board? Anyone sat in on a hearing? Obviously the minister would have to put his hand up on that, I guess. OK. Of those who just put their hands up, how many understand the rules and procedures at the OLRB?

*Interjection.*

**Mr Mitro:** I'd be wanting to see that minister put his hand up there on that.

**Hon Mr Stockwell:** I want to know what my mark is.

**Mr Mitro:** I'm assuming that no one has represented a business before the OLRB present on the panel. Is that a good assumption?

*Interjection.*

**Mr Mitro:** OK. The main problem I have with this is how this bill guarantees that the above scenario that I lay out, no matter how well intended, how well worded and how well presented the wording is, isn't sidetracked or misinterpreted in its actual application. I put that out to all present to try and answer.

1150

The direction that the other part of this bill seems to be taking is the union versus non-union businesses competitiveness, and I would argue that this cannot be accomplished when the foxes are asked to guard the henhouse.

This bill attempts to implement solutions by mandating that the players in the union-only arena, namely employer bargaining agents—regional, if there are any—and employee bargaining agents—regional, if any—should be the ones to reopen their respective agreements. This would be ideal if both these entities were (a) equally representative of all their members and (b) had the resources and drive to examine the situation. I submit that for decades, maybe since their creation, employer bargaining agencies have represented the needs and

desires of their large members almost exclusively, thereby not needing to have the kinds of resources in place to deal with a huge membership such as the employee bargaining agencies do. Many employer bargaining agencies are effectively directed and controlled by a dozen or fewer company members. Small employer members have less than zero influence on this organization because each isn't providing much of the operating money. They are the forgotten stakeholders but they represent the bulk of the member companies. The employer bargaining agencies are generally run by a couple of staffers on a very limited budget, leaving them ineffectual at any problem-solving. I might add that in our case, it's very difficult to get any kind of a phone call back.

At Up-Rite we are sent a bargained collective agreement long after it is in effect, with no recourse or input on what it says.

Just some notes around this area:

Where will these new agreements, if there are any opened up and bargained, be different from the existing for small companies; ie, how does this ensure that companies like ours are represented in this process?

Another question would be, how do we get the employer bargaining agencies to do anything to make us more competitive, especially if it means making those at the top of the feeding chain less competitive? Again, that's the larger companies.

How many regional employer bargaining agencies are there in Ontario, and in which trades are they? Obviously different areas of the province experience things differently. I know in our trades, in the Ironworkers, there is only one provincial agency.

Again, what does this bill do about union-only contracting, especially in the public sector? I would submit, if you answer this, the government's next casino might actually come in on or below the budget.

The final question: Why can't a non-union construction business from another area decide if any new agreement makes union and non-union firms competitive? Answering that question, I don't know that an arbiter without proper business experience can actually tell anyone whether or not that renders a union-bound company effectively competitive in a market.

I would submit the bottom line is what I find most troubling about Bill 69: all of the problems in the labour relations arena that remain unaddressed; for example, internal and external union democratization, workers' rights to choose how they want to work, a streamlining of how the Ministry of Labour governs all types of work in the new economy. The government is leaving Ontario's economy saddled with methods and constructs from the mid-20th century which haven't worked for decades. It's high time they showed some leadership and totally rethought the Ministry of Labour and its role and function to create an economic engine tuner. We would all be better off.

Until then I leave you with the fact that, as the Canadian Federation of Independent Business is fond of pointing out and the current government is fond of

repeating, small and medium-sized enterprises are the new economic generators. So I assert that we at Up-Rite are these people. We are one of these businesses, so why does no one care to really solve our problems in labour relations? We want to go back to creating wealth and employment instead of having to blow off yet another day on a seemingly hopeless cause.

Committee members, Mr. Stockwell, and indeed Mr. Harris, please fix this part of the government. Let us get back to work and make back the money that this mess has cost us.

This ends my presentation. I'd like to answer any questions or entertain any comments.

**The Chair:** Thank you, Mr. Mitro. There's perhaps time for one question from each member.

**Mr Gill:** Thank you for the presentation. I appreciate that. It's certainly fairly elaborate. We'll be happy to read that and perhaps correspond. In your opinion, does this bill address any of your concerns at all or is it totally out of the window?

**Mr Mitro:** I would say it addresses some concerns. I have major concerns with implementation. Presently, if this goes into the system like all the other bills have, I would assert that it really won't make any difference at all. If anything, it might muddy up the waters in the opposite direction. I think that is my major concern about this, and that's why I chose to take the time to come down today.

**Mr Gill:** Are there any amendments you're proposing in your submission?

**Mr Mitro:** I haven't really proposed any direct amendments. I've been advised that really the amending process after second reading isn't very wide, you know, changing an "and" to a "the" and this kind of thing. If I'm mistaken, I'd be more than happy to put something together, as I've already gone through the bill clause-by-clause and I understand what the intent of it is. Again, I would argue that some of its ability to do it isn't there.

**Mr Gill:** I think it's only fair to submit—

**The Chair:** Sorry, Mr. Gill.

**Mr Duncan:** Mr. Mitro, thank you for your presentation. I will look at the background documents. Let me just state at the outset that I think we have some very fundamental differences of opinion and I respect yours.

We had a representative from our local contractors' association here earlier this morning who advocated, I thought quite interestingly, that the labour climate here in Windsor—I see you're from Sarnia; I'm not as familiar with your area—works quite well and that our small contractors are doing very well. I understand the predicament any government and any labour organization find themselves in in these sorts of situations. He argued, and I felt it was a very compelling argument, that the current regime actually works quite well. This was, again, a small contractor, albeit in a different area than you. I just wonder how you would view those kinds of comments. Obviously you don't feel the same way, to quite another extreme. It's difficult for us, as committee members, to



reconcile those two very different points of view from the small business community.

**Mr Mitro:** Sure. I'm sure for some contractors it works very well. We're a subcontractor firm. We're not a general contractor. We provide services to general contractors.

**Mr Duncan:** He was a subcontractor.

**Mr Mitro:** It depends on the trade you're in and the area you're in. Sarnia has been generally recognized as a depressed area for 10 years or more. In 1995, when the union BA came in and said, "Why aren't your people in the Ironworkers union?"—because my dad had been a member years ago—we said, "Well, what's an Ironworker make?" He gave us a number and said: "Oh well, we have this lesser agreement. You could sign on for that." That was very close to a \$10-an-hour increase at the time. We said we'd never get another job that way. We couldn't employ the people we had if we did that.

If the entire payment floor goes up, then I suppose just about anything works.

I don't have a problem with unions in and of themselves. You know, there are good people. I know a lot of union guys, they're friends of mine, and I don't have a problem with that. When it comes to what happened at our firm, where no one in our place had a choice whether they joined, and it basically has killed the company that existed in 1995, I have a huge problem with that. None of our staff ever got to vote on this, never got asked what they thought of it. This just happened two months ago. There's been a successor-run through our company to another company that's established—never owners of our company, never shareholders, never anything but working guys who wanted to start a little business putting doors in. I think they should be able to in the province of Ontario and I have a problem with the two changes I outlined right at the beginning—allowing them to. I think if they go to the board, they still get the runaround and they still have that happen to them.

I can't speak for the other contractor. I wish him well. I know it hasn't worked for us.

**Mr Christopherson:** Thank you for coming in today. Obviously you've done a lot of work. It's a lot of paperwork and a lot of detail. You're to be commended for taking that kind of initiative. Is it fair to say that you'd be happier if the Ironworkers just went away?

**Mr Mitro:** You know, in my dreams that happens, right? The Ironworkers are interesting in the sense that they've gone after our trade in the Sarnia area. They are pursuing company after company. They're not going in and saying, "Fellows, do you want to be in our union?" They're going through the back door like they've done with us. I have a problem with that. If a guy who comes through the front door, I don't have a problem. It's a free country. He can ask and say anything he wants. I feel I should be able to do the same.

If the Ironworkers could, if they had a methodology to work with us and had something to give us—I would assert the Ironworkers are mining companies like mine for the talent. I've trained them. Our people know doors

because we have talent at our company years and years deep that taught them. The Ironworkers came along and knew nothing about our trade and needed those people, I would assert again. The people they have now have come out of companies that have been pulled in. They have not been apprenticed through the Ironworkers and come into the trade that way. This might make it a bit of a different example, but that's what has happened to us, and it has been allowed to happen systematically, step by step. There's nothing we have been able to do in many investigative realms with the legislation as it exists or, I would argue, as it's amended. I don't believe that it stops what happened to us.

**Mr Christopherson:** I should know this from having gleaned the material, but is your company still open?

**Mr Mitro:** Barely. I'm sitting on seven weeks of uncashed cheques. Right now my company owes me \$5,000. My brother and I are the managers. He hasn't cashed his cheque in calendar year 2000. That means it's, say, \$18,000. Both of us have never made what the union Ironworkers make under the agreement that we're bound to. So we're coming every day, we're putting in the 60-hour week, and I can't see my way clear to ever getting as much money as I'm supposed to pay out to a fellow. I have a problem with that and I said: "Help me out here. Business agent of the union, please explain to me how I should do this." "Well, I don't know how. Business is tough. I know how much money you've got to send, though. Here it is; you send me this money." So I don't really have much choice. I backed out of work to try to get out of that jurisdiction. They pursued us every step of the way. We have two file folder drawers full of OLRB stuff.

**Mr Christopherson:** When you read this, it almost sounds like you feel persecuted by the union.

**Mr Mitro:** I would argue that in this particular case it has been very personal. We've had coverage in the media. That definitely browned them off. I don't know why that is. I don't harbour any ill will. He's a nice enough guy on a personal level, but I have a real problem—

**Mr Christopherson:** I'm sure they say that about you too.

**Mr Mitro:** Maybe yes, maybe no. Who knows?

**The Chair:** Thank you very much for your time, Mr Mitro.

We'll recess for lunch and reconvene at 1 o'clock this afternoon.

*The committee recessed from 1204 to 1300.*

UNITED BROTHERHOOD OF CARPENTERS  
AND JOINERS OF AMERICA,  
ONTARIO PROVINCIAL COUNCIL

**The Chair:** I think we'll get started. Good afternoon, ladies and gentlemen. For the benefit of new people here today, we will be hearing from delegations to discuss Bill 69. The first speaker is Mr Byron Black, secretary-treasurer of the United Brotherhood of Carpenters and

Joiners of America, Ontario provincial council. Good afternoon, Mr Black.

**Mr Byron Black:** Good afternoon. I'm off to a good start here. I just opened my glasses case and one of my lenses is out, so I'm going to have to see if I have long enough arms.

First of all, I represent the Ontario provincial council of carpenters. I'm the secretary-treasurer. We represent more than 17,000 members, comprised of 17 carpenter local unions, eight millwright local unions, two industrial local unions and four district councils in the province of Ontario.

The Ontario provincial council of UBCJA views Bill 69 as an alternative to the proposal made by certain employers to repeal or weaken subsection 1(4) of the Labour Relations Act. Repealing or weakening section 1(4) would have triggered a return to the extreme levels of conflict that characterized the construction industry prior to adoption of the Davis amendments, which included the present subsection 1(4). In our view, Bill 69 reflects an industry-based approach to addressing the competitiveness issues raised by certain employers. However, while we do not oppose the general direction of Bill 69, we strongly believe the bill requires amendments.

Due to the time restraints applied to our submission, I will focus on sections of Bill 69 which we feel must be highlighted as to the effects and results on our affiliates.

First of all, the bill allows, for the first time, for the creation of a designated regional employers' organization. We have difficulties with this. We feel that the role of the employers' bargaining agency should be utilized maybe more than it has been. The designation by the Minister of Labour of employer bargaining agencies is the cornerstone of the province-wide scheme for collective bargaining in the ICI sector in Ontario, of which you're well aware. This was put in place back in 1977, with the Franks report. The designations made by the Minister of Labour in 1977 generally reflect the pre-existing bargaining patterns.

The province-wide system of collective bargaining in the ICI sector of the construction industry has been in place for some 22 years. This system has worked well, in our opinion, and province-wide bargaining has brought a substantial degree of stability to labour relations in the ICI sector. In our opinion it would be a serious error to believe that province-wide bargaining is inflexible or unresponsive to local conditions. Virtually all provincial agreements provide for differential wage rates based on geographic areas. Provincial agreements have procedures that allow for mid-term adjustments to their monetary provisions on a local basis. The current province-wide system that is set out in the Ontario Labour Relations Act can and does accommodate the need to be responsive to the local conditions.

Bill 69 creates new procedures for making provincial agreements responsive to local conditions. The way in which Bill 69 lays out these new procedures significantly detracts from the integrity of the province-wide system of

collective bargaining. Bill 69 jeopardizes the stability that province-wide bargaining has brought to the ICI sector of the construction industry.

One of the most serious ways in which Bill 69 weakens province-wide bargaining is in the procedures the bill proposes for government DREOs. The proposed procedures give no role to the employer bargaining agents in the appointment of DREOs. In our opinion, this is a serious error.

There has been virtually no controversy over the more than 20-year period since designations were issued in respect to the vital role played by the employer bargaining agencies, and we feel that they should be given more of a chance to play their role in being effective in the competitive markets.

The Ontario provincial council believes that the creation and role of the DREOs under Bill 69 is a confusing and unnecessary addition to the Ontario Labour Relations Act and has the potential of undermining the integrity of the province-wide scheme for bargaining in the ICI sector of the construction industry. Labour relations stability will surely be jeopardized by the proliferation of DREOs with rights to seek conflicting amendments to provincial agreements within a geographic area.

What we would recommend is that only an employer bargaining agency or DREO appointed by such agency should be entitled to apply for local amendments to a provincial agreement and have the right to make applications for arbitration and submissions under sections 163.2 through 163.4. There should only be one DREO, if any, appointed by an employer bargaining agency for each provincial agreement in each geographic area. In some areas we have locals that have more than one in each geographic area of its local union, and that can be a conflicting situation. DREOs should be appointed by the Minister of Labour, not by the Lieutenant Governor in Council. Both the employer and the employee bargaining agencies, it should be noted, are appointed by the Minister of Labour, not by the Lieutenant Governor in Council.

The other part that I'd like to speak on is section 163.2(4), which sets out the provisions of a collective agreement which may be amended under the provisions set out in the bill. The application may seek only amendments that contain the following matters. One is pertaining to wages, including overtime pay and shift differentials and benefits. We have a serious concern with this. I am currently the chairman of the carpenters' provincial benefit and pension plan, which is the only one we have in Ontario, and I have included in my submission a letter from our administrator supporting our concern. You can read that at your leisure.

We have 13 local unions in our pension plan, and we have 12 local unions in our welfare benefit plan. So if Bill 69 permitted amendments to all of our local wage schedules, including the contribution rate for our pension and welfare package, then we would be all over the map and our plan would be basically destroyed, because our plan is a provincial plan, like I said earlier, and it's based



on one contribution rate and as a result benefits are provided for the participants on this basis.

In reference to wages, we feel that if wages are amended, then this has to be in conjunction with the mobility clause that's being provided in this document as well. What we mean here is that if a contractor comes from out of town to a local area, the employees he brings with him are subject to those wage conditions. We totally feel it would be unfair if a contractor came to Windsor from Toronto and the Windsor rates were amended and the carpenters, for example, who came with the employer were paid the Toronto rates versus the Windsor rates. What we're saying is that this has to apply to all employees on site, to be fair to everybody.

The other issue is with apprenticeship. We feel that the current wording of Bill 69 does not take into account the regulations under the Apprenticeship and Trades Qualification Act that establish maximum ratios of apprentices to journeymen. So we recommend that subsection 163.2(4) be amended as follows:

"The application may seek only amendments that concern the following matters:

"1. The wage package, overtime pay and shift differential"—and nothing more.

"2. Requirements respecting the ratio of apprentices to journeymen employed by an employer, subject to the Apprenticeship and Trades Qualification Act and regulations thereto."

We feel the definition of "market" is also an area which has to be looked at. Under subsection 163.2(5), applicants seeking local modifications to a provincial agreement must "state the kind of work, the specified market and the location with respect to which the amendments would apply." Unionized contractors do not require modifications to provincial agreements to secure work for which they are already successfully bidding. The way in which "market" is defined in Bill 69 is far too broad. The definition in Bill 69 could include work that is already being done by unionized contractors, and to allow wage reductions on such work is clearly unreasonable.

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To make the procedures in Bill 69 both effective and fair to all concerned requires a more precise definition of "market." What we recommend is, "The market in which it is performed which will be a specific segment of the industrial, commercial or institutional sector which cannot include work which historically has been performed by members of the affiliated bargaining agent."

Another area is the legal test at arbitration for modifications to a provincial agreement. The test at arbitration in an application for local modifications to a provincial agreement is unreasonably and unrealistically low under subsection 163.3(32) of Bill 69. The term "competitive disadvantage" is a potentially ambiguous phrase. A fair test at arbitration would be one where an applicant was required to prove a significant competitive disadvantage with respect to the kind of work, the market and the location indicated in the application.

We recommend that subsection 163.3(32) of Bill 69 be amended by adding the word "significant" before the phrase "competitive disadvantage."

Another area is in regard to two final offers only, one from the employer side and one from the union side. Bill 69 permits more than one final offer to be submitted by both the employer and the union sides. In the case of the union side, a final offer could be submitted by the local union and by the employee bargaining agency. In the case of the employer side, the employer bargaining agency could submit a final offer, so also could any DREOs "having members who carry on a business in the area covered by the affiliated bargaining agent's geographic jurisdiction." In principle, this could involve many DREOs.

Permitting multiple final offers from each side runs completely counter to the logic of final offer selection. Under Bill 69, DREOs can submit final offers without ever having participated in any discussions or negotiations whatsoever. When more than one final offer from a side is permitted, the incentive for an employer is to arrange for multiple offers that cover a spectrum of remedies. The incentive is not to narrow the difference with the union, nor is there an incentive to seek a negotiated settlement. The bizarre process of multiple final offers set out in Bill 69 has no precedent of which we are aware in Ontario or in any other jurisdiction.

We recommend that Bill 69 be amended throughout to permit only two final offers, one from the employer side and one from the union side.

Bar on reapplication for local modifications to a provincial agreement: Subsection 163.2(10) of Bill 69 imposes a bar of six months and 21 days on another application to an affiliated bargaining agent for local modifications to a provincial agreement after the day in which the first application was served if the work, the market and the location are not the subject of a referral to an arbitrator under section 163.3, and a bar of six months after arbitration proceedings have been terminated if such work, market and location were the subject of a referral.

We recommend that the bar in subsection 163.2(10) on reapplying for local modifications to a provincial agreement, if an application for such modifications was previously made to an affiliated bargaining agent, be changed to one year. The bar should only apply to reapplications that either include or are substantially the same as the previous application. Work that is covered by local modifications to provincial agreements made under section 163 should not be subject to subsequent applications for local modifications during the remaining term of the provincial agreement.

New section, duration of local amendments: We recommend that Bill 69 be clarified to provide that local amendments to provincial agreements would apply only for the balance of the term of the provincial agreement, and that disputes regarding whether work falls within the target area of the local amendments made under section 163 or any other issue dealing with the application of such local amendments will be resolved through the

grievance procedure under the relevant provincial agreement.

Default provisions in hiring: Bill 69 proposes certain new default provisions in relation to hiring under provincial agreements in the ICI sector in reference to transfer up to 40% of the total number of its employees from another geographic area to the geographic area where the project is located, and that name-hire up to 60% of employees from members of the affiliated bargaining agent in the geographic area who are required for the project and who are not employed under the new mobility provision.

Currently in the carpenters' agreement, we have mobility provisions and we have recall rights, but we'd like to point out the employer has the right to either name-hire or use the mobility provisions, not both. We are concerned that there has to be some housecleaning done in this respect because there can be games played with the recall provisions, where an employer can possibly bring in and tell employees to get into the hall and on the list and things like that. So we recommend that section 163.5 should be amended to clarify that the 40% of employees to be transferred or the 60% of employees to be name-hired are maximum percentages which cannot be exceeded at any time, whether on start-up, buildup or downsizing the job in question.

Also, section 163.5(1) should be amended so that the mobility provisions are restricted to transferring only current employees. That's key to us, because in our opinion if you want to be eligible for mobility provisions, you would have to be working for that employer, or have had been working within a reasonable period of time before the transfer.

Section 163.5 should be further clarified to stipulate that the provisions of existing provincial agreements will continue to apply to persons hired pursuant to these new mobility and name-hire provisions, such as provisions involving the payment of travel time, room and board allowances, the requirements for referral or clearance steps to gain access to projects etc. This again is an important issue. In order for us to keep everything on a level playing field or above-board, these provisions have to be complied with.

The legislation should be amended to clarify that any employees not hired under the new mobility or name-hire provisions would continue to be hired, as before, under the provisions of the provincial agreement.

The 60% name-hire entitlement for an employer should be changed to up to a 50% name-hiring.

Section 163.6 requires the minister to conduct a review of the effectiveness of Bill 69 "in improving the competitiveness of the industrial, commercial and institutional sector of Ontario's construction industry" by no later than December 31, 2001. We strongly recommend that this section be struck from the bill because we feel there has been a lot of bargaining, if we may say, in good faith on all sides—labour, management and government officials—trying to come to this industry solution. We

feel that we've put our best foot forward to come up with this resolution.

Also we feel, in fairness, that we need a sunset provision. Section 150, dealing with the residential sector, sunsets on April 30, 2002. Section 163, dealing with the ICI sector, has no sunset provision. We strongly recommend that to be consistent with the principle established in section 150, section 163 and the amendments to sections 125 and 151 be sunsetted on December 31, 2003.

In conclusion, we are saying that Bill 69 has been introduced in response to competitiveness issues raised by certain employers. Some of these employers have called for repeal or weakening of section 1(4) to address these competitiveness concerns.

Without section 1(4), construction employers would be able to walk away from a signed collective agreement whenever it suited them, through the simple device of setting up a shell company which would be nominally a different employer. Taking section 1(4) out of the Ontario Labour Relations Act effectively turns the statute on its head. Instead of unionization being an employee choice in the construction industry, unionization would become an employer choice.

Repealing section 1(4) would eliminate the checks and balances in construction labour relations and trigger a return to the era of intense industrial conflict that preceded the Davis amendments and the enactment of section 1(4). Such conditions would be the very opposite of the competitiveness that is the government's stated purpose in presenting Bill 69.

Bill 69 represents an industry-based approach to the problems of competitiveness that some employers have raised. Bill 69 is an alternative to repealing section 1(4). However, as outlined in this submission, Bill 69 in our opinion requires amendments if it is to contribute to industrial relations stability and achieve the competitiveness objectives that the government has set out.

This is all respectfully submitted by the Ontario provincial council, United Brotherhood of Carpenters and Joiners of America.

**The Chair:** Thank you very much, Mr Black. Members of the committee, that was a full 20-minute submission, so there won't be time for questions, unfortunately.

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ESSEX AND KENT COUNTIES  
BUILDING AND CONSTRUCTION  
TRADES COUNCIL

**The Chair:** The next presenter is Mr Dick Pearn, president of Essex and Kent Counties Building and Construction Trades Council.

**Mr Dick Pearn:** Good afternoon, Madam Chair, Vice-Chair and honourable members of the provincial Parliament of Ontario.

My name is Dick Pearn. I am the business manager of UA Local 552, plumbers, steam fitters and welders in Windsor, and I'm also president of the Essex and Kent Counties Building and Construction Trades Council.



I thank you for this opportunity to put forward a position on Bill 69, which I present to you on behalf of the Essex and Kent Counties Building and Construction Trades Council.

Much of what I am about to relate to you has probably been said before in one way or another. However, that will only indicate to you how strongly we feel about the imminent threat to our security should Bill 69 be implemented.

Unlike many others before me, I am not here to attempt to convince you to temper the terms and conditions of Bill 69. I am here to try to convince you to scrap the bill in its entirety.

If enacted, it will not level any playing fields; it will only serve to disrupt one of the finest skilled workforces anywhere.

Every representative of labour in this room would agree that the removal of section 1(4) from the Ontario Labour Relations Act would have serious consequences for the unionized construction industry. Nobody would want to see its demise. It was created and inserted into the act by a previous Conservative administration for what seemed to be a good reason at the time. Its purpose was to achieve a stabilizing effect for a then troubled industry, and it did all of that.

You would be correct in thinking right now that I and the majority of my council endorsed a policy whereby a committee of my peers in Toronto would attempt to broker an agreement that would persuade the Minister of Labour of Ontario, Mr Stockwell, not to make good his threat to repeal section 1(4) of the Labour Relations Act.

These negotiations were well-intended, I'm sure. However, under the constant threat of the removal of section 1(4), we know now that the alternative was conceived in haste and without enough consideration being given to its impact on areas such as Essex and Kent counties. Our message to that committee was not, "Get a deal at all costs." We may have said, "Trade a few chickens, give away a few sheep," but we didn't say, "Sell the farm." If we have to survive without the shelter of 1(4), I guess we will do so.

We have been persuading non-union workers to join us since I can remember. I believe that every worker should have union representation to protect them from the dictates of profit-driven organizations.

Hundreds of hours of training, over and above the standard requirements for our respective trades, are provided to our journey persons and apprentices. This is done to increase that member's employability and to provide our contractors with the ability to diversify his scope of work and be able to shift his workforce to any type of project. Once any journey person has achieved a credible skill level, we believe that no employer should have the right to cut that person's wages and benefits in the interests of profit.

Bill 69 is not an even-handed piece of legislation that levels any playing field. We all know in our hearts that it is profit-driven, in the interests of large corporations.

Its potential effect on smaller areas away from the Toronto metropolis could be devastating for construction workers and their families, and even for local contractors.

There should be no negotiating of manpower mobility: not 40%, not 20%, not even 10%. We strongly believe that local jobs should be available to local residents first. As construction workers living in the counties of Essex and Kent, we have experienced good times and bad times.

The bad times, when they come, are getting worse. Unemployment insurance benefits have been slashed and benefit periods reduced. Workers' compensation rules are becoming incomprehensible and often require the services of a paralegal or a lawyer.

During construction downturns, our respective organizations provide us with more than adequate options to be mobile.

We do not want to be separated from our families, however when one has responsibilities, one has no choice. Without any relief from our government for traveling expenses or living allowances, we ply our skills anywhere in Ontario, or even Canada. We do it to maintain our families and keep the home front secure. We do it to finance ever-increasing benefit package costs. But we do it always with the thought in mind that sooner or later a job will break at home. After Mr Chrétien and Mr Harris get their share, we pay our taxes here. We buy our homes here. We purchase our vehicles here. In fact, every dollar we spend promotes our community.

Outward appearances may give many the impression that construction workers enjoy the gypsy life. Nothing could be further from the truth. I can assure you all that most of us are home-loving, responsible people, just like yourselves. Please don't support a plan that deprives us, your constituents, of our ability to earn our living at home. When an anticipated job is about to break in our own community, many who have been on their union's unemployed list or who are working out of the area relish the thought of rejoining their families and working at home again.

Local unions forming my council conduct carefully orchestrated pre-job markups for such projects with employers and owners. This practice is to minimize disruption and to ensure a smooth project for the contractor and owner-client. We don't do it to cater to an unknown workforce. We do it with the thought in mind that we are finally going to get our members back to work again. It does not matter which contractor is awarded the job, the same rules and assurances apply. Most importantly, the same local workforce gets the first opportunity to perform the work. If the particular project requires more manpower than the area can provide, each local union's mobility provisions are utilized. Again, as local area residents receive preference of employment in times of hiring, the same philosophy prevails at times of layoff, when the job winds down.

I respectfully ask you all, does this sound unfair to you? Is it unreasonable for us to expect to work at home

when a local project presents itself? Oftentimes it is our own tax dollars that are subsidizing the project.

If the provisions of mobility provided in Bill 69 are exploited to their full potential, all this careful pre-job planning and preparation that has been fine-tuned for many years will be gone. This can only result in labour unrest once again. I can assure you all that no member will sit by idly and see his job taken by others, while his long-awaited position is filled by persons from other jurisdictions.

Bill 69 proposes to open our collective agreements to allow employers the opportunity to seek reductions in our wages and working conditions. An announcement made recently gives us every reason to believe that the Conservative Party for the province of Ontario is on the verge of promoting a well-earned increase for all our MPPs. As a taxpayer, I'm not against that notion. It's probably well deserved. However, with that said, I would challenge any member of the mighty Conservative Party to shadow a construction worker for a week, in any given season. Follow us into the trenches and holes, or up in the steel, in the heat of summer or the frigid winter. Try a week in January on the art gallery project, right on the river front, when the winds are blowing the snow around. Then tell us we're not worth what we get.

Our members believe that we negotiated our collective agreement in good faith. We thought we negotiated our collective agreements in good faith, democratically, and with a final ratifying vote for all members in Ontario. Should the implementation of Bill 69 be our reward for acting responsibly?

Work that would be targeted in the local modification section of Bill 69 is work that most of our employers often abandon temporarily. In construction booms, they favour the more lucrative projects that carry a higher profit margin, and who can blame them? That's not greed, it's good business sense. But should we be the ones to take a cut in wages in order for those same contractors to maintain a constant profit level when they decide to go after the abandoned market again?

We are expected to provide all the same skill levels in the interests of the contractor, regardless of the type of project. Why would any journeyperson agree willingly to work for less? Forcing our wages down will only cause discontent. It will discourage productivity and will more than likely give the underground economy its most significant boost ever. You never hear that this lost market share that the contractor is not competitive in is being addressed locally anyway, in many areas, including ours.

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Any mechanical contractor in this room will tell you that there are agreements on the verge of ratification that will make them more competitive. These agreements do not compromise any member's ability to earn his living with dignity. They will also achieve competitive relief for our contractors without stealing our members' negotiated rights, using the legislative process.

I could go on providing you with my reasons for scrapping Bill 69, but I realize that time is a factor, so I

will end my presentation to you on the same theme as I began: Bill 69 has all the potential to be the single most disruptive piece of legislation ever enacted, under the disguise of improving the construction industry. Our local hiring hall provisions are the only form of job security we have, especially at times when we're out of town. We believe that more thought should go into any deal that deprives any worker of his legally negotiated rights, especially to thicken the lining of contractors' pockets. My philosophy has always been: You show me a contractor crying poverty and I'll show you a man who probably just bought a bigger boat.

Maybe the events of recent months will serve as a wakeup call to all organized labour in Ontario. As we all know, construction collective agreements expire in the spring of next year. Maybe contractors will get the edge they're looking for via an honourable process rather than blackmail or out-and-out theft.

I plead with all our Queen's Park representatives to come together in the interests of those they represent and put Bill 69 where it belongs. Thank you.

**The Chair:** There's about time for three questions, one from each party. We'll start with you, Mr Duncan.

**Mr Duncan:** Thank you, Dick, for your presentation. You address very clearly the questions about your hall and the 60-40 question. I thought you talked very well about the mobility issue.

One issue that I wanted to draw you out on a little bit was the ratio of apprentices in this legislation. You referenced the good work your local does, and your union does overall. That's an issue that we've largely passed over today. I'd like to hear your thoughts on that. I know you're opposed to them. I'd like you to put on the record for me why and what issues you see in the whole apprenticeship area.

**Mr Pearn:** I'm not sure I understand your question. Do you want me to comment on the current proposal to change the ratio of apprentices?

**Mr Duncan:** That's correct, yes.

**Mr Pearn:** In order to maintain skill levels to the level they are today, these ratios were carefully put into place, with a lot of thought behind it, by PACs, provincial advisory committees. It's a tolerable level for contractors to bear when training an apprentice while they're on the job. Any lowering of that would probably detract from a member's skills, finished-product skills anyway. I would see it as a general step in the wrong direction.

**Mr Duncan:** It's sort of counter-intuitive to the notion of improved competitiveness, because that is one of our great strengths, particularly in this area, as I understand.

**Mr Pearn:** The notion of apprentices is not to make a contractor or anybody else financially more competitive; it's to train and have a perpetuation of our workforce. That's the original notion. Along the way, the contractors benefit from the services as an apprentice increases from first, second, third, fourth and fifth years.

**Mr Christopherson:** Thank you for your presentation. Just for the purposes of Hansard, let me say into the record that it's not very often that we get a huge



crowd that comes out in the morning, breaks for lunch, and is still here in the afternoon. It's just normally not human nature. As far as I can tell, there are not only as many people as were here this morning, I think there are more people here this afternoon than there were this morning, which again speaks volumes to how the local construction workers feel about Bill 69 and the damage it's going to do to their profession.

We've had a number of employer groups come in who are supportive and seem to believe that bringing in Bill 69 is going to upset some of you, but if they just give the government some support and keep their spine nice and stiff, this thing will be rammed through and everything will be fine after everybody calms down a little. Yet we have had a number of presentations from labour leaders predicting, not advocating, there's going to be major labour unrest on construction sites across the province. If that's true, then I would certainly hope that employers are paying a lot of attention because at the end of the day, if that does happen, any benefit they might derive from Bill 69 will be more than lost by virtue of that disruption.

What is your sense, with your years of experience, especially in a leadership capacity, of what could happen both locally and across the province if Bill 69 is rammed through in its current form?

**Mr Pearn:** I could speak to it as if it were my job that I was going to lose. It's one thing to bypass the protocol of collective agreements, but it's another thing when you get into the personal side of a person living and trying to raise his family here in Windsor and a group of people coming from out of town to take the jobs they've long waited for. So I can only predict that not only will there be union action to protest that procedure but there will be personal action taken by a lot of citizens of Windsor who pay their taxes here, live here and don't relish the thought of losing their jobs to people from out of town.

**Mr Christopherson:** Let's hope the government and the employers are listening.

**Mr Gill:** Thank you for being here, it's great and it's nice to see the crowd back again. Welcome.

I thought you might agree. Would this mobility clause not benefit your people, as well, the local contractors, once they get contracts somewhere else? They could take some of the workers with them for the efficiencies, because they've worked with them longer term.

**Mr Pearn:** Respectfully, I'm not here to cater to the concerns of our contractors and their mobility elsewhere. I'm here to look after the members' interests, and we're only concerned that the jobs go to people who live in this area, not elsewhere.

**Mr Gill:** I thought maybe your own members would benefit because now they will be able to go to other places.

**Mr Pearn:** We do have that ability to travel through our inter-union activity, travel card basis.

**Mr Gill:** So you have a mobility clause now with your—

**Mr Pearn:** We have a degree of mobility in our agreement.

**Mr Gill:** OK, thank you.

**The Chair:** Thank you very much, Mr Pearn.

## MECHANICAL CONTRACTORS ASSOCIATION OF WINDSOR

**The Chair:** The next speaker is Mr Richard Haller.

**Mr Richard Haller:** Madam Chair, members of the committee, I want to thank you very kindly for allowing us this opportunity to be here. My name is Richard Haller and I am the president of the Mechanical Contractors Association of Windsor. I am also the immediate past and the current chairman of the MTBC, which is the negotiating arm of the Mechanical Contractors Association of Ontario and is responsible for the provincial agreement.

I have with me today Mario Cossarini, who is the president of State Contractors; David Holek, the president of Lekter Industrial Services; Brian Fahringer, general manager of Fahringer Mechanical; and Pat Devin, who's the president of Fahrhall Mechanical. Together we represent some 25 local Windsor mechanical contracting companies operating primarily in the industrial, commercial and institutional sector for the greater Windsor area.

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I would like to make you aware that the mechanical portion of the ICI construction projects includes anywhere from 40% to 60% of the total value of the entire project. It is also usually the most labour-intensive portion of any given project. As mechanical contractors, we are also responsible for work performed by subcontractors, which includes sheet metal, refrigeration, fire protection insulation controls and often electrical and/or work by civil trades.

As the Windsor mechanical group, we have been working together with our provincial counterparts of MCAO, and substantially over the past six-month period, we have been in discussions with the government, which eventually led up to the introduction of Bill 69. Our position throughout those discussions and those meetings focused on the need for legislation embracing improved management rights. This is a source for our position of re-establishing fairness, effective bargaining and improved competitiveness within the ICI sector.

Clearly, and to our disappointment, Bill 69 has overlooked this approach for dealing with our industry's problems. We believe that the perception that the Minister of Labour, Mr Stockwell—who fortunately is present today—has conveyed to the public, that there exists broad management support for both the content and the intent of this legislation, is not in fact the opinion of the mechanical contractors.

We're extremely concerned that the proposed legislation, as per section 160, clearly shows preferential treatment for a small and select group of general contractors, while at the same time providing no value or

benefit for the vast majority of the other Ontario contractors.

The elimination of management input and the granting of full, unilateral power to the construction unions is simply unfair and unreasonable. We ask that section 160 be replaced with wording providing for certain controlled management rights for all construction employers, not just the general contractors or select firms—which is clearly the true oversight of Bill 69—or, at a minimum, that section 160 be amended to require that the bargaining agency's approval, in conjunction with the unions, also be required before there's any relief for anyone under that section.

We also implore this committee not to support a call for special legislation to release this select group of general contractors, as has been called for by some parties. It's imperative that this committee recognize that all unionized employers face the same non-competitive challenges existing in Ontario today as those select firms face, and that relief for this selected group over others is simply wrong. The supposed gains in competitiveness that Bill 69's enabling process generates will benefit these select firms in an equal way to any benefit that is gained from any other firm presently tied to a union agreement.

It is our understanding that the government intends to conduct a serious review of the ultimate impact of this legislation by December 2001. We believe, however, that this review will be inconclusive, because we think that the key components of the act will have had insufficient time to determine their value. The market conditions existing in the province, and anticipated to sustain for the immediate future, are certainly not such as will allow for a fair and a proper evaluation and adjustment for the lost markets, the effect of which this legislation is attempting to correct.

Nonetheless, we look forward to playing a major role in this review and receiving the government's future support for additional legislative action, where and when warranted, to address the lack of competitiveness and the fairness in our industry.

We thank the committee for its time and attention and ask for their full support for our noted amendments.

**The Chair:** Thank you, Mr Haller. We have time for questions, starting with Mr Christopherson.

**Mr Christopherson:** Thank you, Mr Haller, for your presentation. It's interesting: If one considers the submissions that have been made since 10 o'clock this morning, I think we've had one supporter of the bill, and that was lukewarm at best, which was the Windsor Construction Association. You clearly are not supportive of this for a whole set of reasons different from those of a lot of the labour leaders and members who are here, but certainly you're opposed to it. It should tell the government that they've got a piece of legislation that not only doesn't have broad-based support, it's got broad-based opposition, and they need to go back to the drawing board, after they first scrap the bill entirely.

I wanted to ask you about the issue of management rights. I think the reason, if I may, you heard scattered applause was that people like it when anybody comes in here right now and opposes this bill, but given that you're sort of from the management side of things, they weren't sure just how hard they should be applauding your willingness to do that, given that the other side of this is what you want in exchange rather than what's in Bill 69. You're asking for increased bargaining rights, and I wanted to ask you, as a member of the negotiating committee for management, why you would expect the government to step in and beef up management rights from what you already have in the provincial agreement, given that if the union wants any rights for their members, they have to get them at the negotiating table. It's not the government that's going to give them those rights; that's going to come from their bargaining ability at the negotiating table. Why do you think it's appropriate for you to ask the government to give you management rights rather than your having them negotiate them at the negotiating table the same as a union has to for their members' rights?

**Mr Richard Haller:** First I will respond, as a management representatives in this industry, in this province, by saying that the present government has addressed and understood and identified the exact problem you're asking about substantially clearly and, I say in defence of them, has attempted to make some kind of step forward, which in fact they have done. We only believe it isn't quite enough. But in order to level the playing ground—re your comments about how these negotiations take place—first of all we go to Toronto, not necessarily but generally. We have a group of 14 representatives, representing all of the ICI contracts within Ontario, and we attempt within what was probably a good parameter for this legislation some 15 years ago to come up with a province-wide contract that meets everyone's needs. Having been part of that committee for some 12 years and having chaired the committee in the past, and acting as the current chairman this year, I think it is next to impossible to satisfy the needs of all those 14 zones. The end result is that we now look, as management, at what is really our largest liability, and that is very obviously our restriction by legislation of being unionized contractors faced on a continuous, daily basis with a situation of competitiveness where we're dealing with people who are other than union and who therefore have substantially different costing. I'm trying to answer your question.

**Mr Christopherson:** OK. That's fair.

**Mr Richard Haller:** The end result is that somehow or other we are looking for some kind of relief or adjustment to the legislation that will allow a more equal and a more fair approach at our bargaining. We are happy to sit down with our union counterparts. As was mentioned by my immediate predecessor here, Mr Pearn, we have in Windsor in fact made giant strides toward mutual agreements to identify our problems. However, speaking on a broader base, when we go to the entire province there has to be change, and Bill 69 does address that change.



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**Mr Christopherson:** But rather than bringing union members down, how about if the government came in with a fair wage policy that brought everybody else's wages up and eliminated the competitive disadvantage that way?

*Applause.*

**Mr Richard Haller:** Apparently you don't read, at least if not the same paper then the same page of the paper, where, among others, in my opinion, our most noted leader of the government, being our dear friend Mike Harris, has clearly identified the competitive situation of construction in Ontario as being a large deterrent to bringing business in. I'm sure this is part of their parcel.

Do I personally want to take any of my fellow members behind me and reduce their pay? No.

**Mr Christopherson:** But that's what's going to happen under Bill 69.

**Mr Richard Haller:** But the problem is not them—

**Mr Christopherson:** So bring everybody else up rather than taking these folks down.

**Mr Richard Haller:** —and it's not me. The problem is—you're right—everyone else. How do you do it for everyone else?

**Mr Christopherson:** That's what I said; bring in a fair wage policy where the non-union sector has to be at least fair about the wages vis-à-vis the union wages that are paid under unionized contracts.

*Applause.*

**Mr Richard Haller:** Maybe we should publish a paper and we can send it to the entire United States, which obviously doesn't agree with that procedure, and to the provinces like Alberta, which obviously doesn't agree with that and has had great success in doing other than that. For me to say I oppose it, no, I don't. However, it absolutely is not a result—

*Interruption.*

**The Chair:** Ladies and gentlemen, I have allowed a certain amount of latitude this afternoon, but please do not let it degenerate any further.

Minister Stockwell.

**Hon Mr Stockwell:** Thank you for your submission. Just to pontificate for a moment, I suppose life is full of compromises, and compromises are sometimes what makes the process of governing difficult. I'm quite confident that when Mr Christopherson voted in favour of the social contract that ripped the collective agreements up for the public sector unions and gutted them and rolled them back and reduced them, he in his mind felt there was a compromise there that served the purpose of the government and himself. Frankly, I didn't agree at the time with it and I didn't think it was the approach to take, but I understand what he was trying to accomplish.

The question then is, there needs to be some compromise, in our view, in the construction industry. We hopefully have struck the proper balance. I understand there are going to be people out there who don't agree. Collective agreements are set in place and union mem-

bership is what it is. But the point is, and the question I'd like to make is, if there is a collective agreement in place in Windsor, for instance, where 90% or 95% of the local membership is working, there doesn't apparently seem to me to be a competitive disadvantage. So ultimately, the step before reopening the contracts would have to be to prove a competitive disadvantage. Let me say that in Sudbury and Timmins and in other areas and places in the province, there is a significant competitive disadvantage. Possibly in Windsor there isn't, so they wouldn't get past the first step.

The question I have for you is, if 160 were removed from the legislation, if it were withdrawn, are you telling me that you would support the legislation in full and give it your full and hopeful support to ensure that it works across the province as a whole?

**Mr Richard Haller:** I think if I responded to that, and I said it earlier, that it absolutely is an attempt not only to identify but to solve some of the problems. My response to that would be that I would suspect our group would approve that, yes.

**The Chair:** Mr Gill, do you have a question? Mr Duncan?

**Mr Duncan:** No questions.

**The Chair:** Thank you very much, Mr Haller.

DAN SLOTE

CHRIS SLOTE

**The Chair:** The next speakers are Mr Dan and Mr Chris Slote. Good afternoon, gentlemen.

**Mr Dan Slote:** Good afternoon. My name is Dan Slote. This is my son Chris. We're following some big acts here.

**Hon Mr Stockwell:** Big what?

**Mr Dan Slote:** Some big acts. But I have a funny feeling I know who has the vote.

We came here today to talk about Bill 69 and how it's going to affect us. I was very surprised with the people who are here today. We watched the channel and saw how you people speak, and I know we have some very loud voices here today, so thank you for listening to us. Maybe you might not want to, but anyway this is what I put together.

Chris and I are here today to speak about Bill 69 and how it's going to affect us, the workers. I'm a member of Local 552, but I work for CAW Local 200, Ford's, at the moment. My heart is with Local 552. Chris is a first-year apprentice in plumbing for Local 552.

As we all knew, a re-election of the Mike Harris government on June 3, 1999, was going to be a devastating event for union construction in Ontario. In my 30 years of plumbing work, I have never seen our plumbing local take on a political agenda at all. This was the first time the members stood up, and we did try to fight your election.

In the late 1970s, Bill 104, I think, the provincial bargaining, was presented to us as just fact. As members we

had no vote. One day it's, "OK, we're going to Toronto to negotiate."

The building trades of Ontario spent \$6 million in campaign funds against Mike Harris and the Conservative re-election. That's money that should have gone to help our unemployed, our sick or disabled members, or look at our past record as members of local unions donating to charities and working in charitable activities. This past year and a half I would say our union support of charitable funds was diverted to the fight for our future, all because of the gun that was put to our heads. I feel that way.

Please don't try to kid ourselves here. This is union-busting at its best for the Conservatives and their friends, and the worst for my son and me, especially when it comes to collective bargaining. I think my main concern is the mobility clause; bringing in 40% of the workforce to our community or your community and name-hiring another 30% leaves 20% for our business manager to supply off a list. This makes it very hard to take care of our unemployed members—some, believe it or not, on the verge of needing social assistance. In my case, it takes it out of Mr Pearn's hands and, as you can hear, he takes very good care of his members.

On the issue of mobility, I want to speak a little bit about a letter I wrote to the Windsor Star, February 5, 1999.

"The city of Windsor and the county of Essex are about to increase our taxes to cover \$16 million of hospital expansions. With the construction work starting, I see again that the workers are from out of town.

"With this donation, I hope future contracts are limited to county companies and workers.

"The hospitals asked for our help. Now let's see how they can work with local construction workers and keep the money here in Essex county."

This is not a union or a non-union issue, this is a community issue, and I think that's how the mobility clause is affecting us. We dig in our pockets, the taxpayer pockets, for grants and programs. We should be able to keep much of this income here for the greatest benefit of our community. I don't like to see the money going down the 401 on Friday night when we have skilled workers unemployed in our community.

1400

I've travelled this province to put food on my table and keep the bill collectors off our doorstep. Year after year, we've done that. Every time someone gets a plumbing bill, they think we're rich. Bill 69 is again only lowering our standard of living. In the past, I wrote Chris Hodgson, my member of Parliament from Haliburton, and asked, "Why is your government taking on the construction industry?" As far as I'm concerned, this government is working very hard to make our labour standards Third World, and if Mike Harris succeeds, I'm sure there will be a government grant for his friends.

How does Bill 69 affect me? I'm working for the CAW at the moment, but I know that in the near future I'm going to want to travel this province and I don't think

it'll be there because I think this bill is going to create unemployment in certain areas and obviously they're going to be trying to put their members to work when they have a 40% out-of-town workforce brought into their community. It is my future and I'd like to see my son have a future in this industry as he's going to be a fourth-generation plumber.

**Mr Chris Slote:** I just want to thank the panel for making the trip down to Windsor. I read that initially all five days were supposed to be held in Toronto. I think it was a Liberal member from Sudbury who made the proposal, so I think it's great that you guys all made the trip down to hear from the workers.

Like my father touched on, it's hard to top what my business manager, Dick Pearn, said and so I won't talk about some of the things that he already discussed, but what I have to also add about the mobility clause is that when a contractor brings in workers from out of town and our list that we've used in the past is underutilized, it's going to hurt some of our older members or some of our—maybe they're called sick or injured. The thing is, the way the list is set up now is that we ourselves, as an organization, have had the decency to protect our older members and with the use of the list, it's a very fair system. If you're next in line, you go to work; it doesn't matter. That's pretty much my viewpoint on mobility, that people haven't already touched on.

I guess what I can speak on—and Mr Duncan started to ask some questions about this at the end of Mr Pearn's presentation—are the changes to the ratio of apprentices to journeymen. I think right now it's a good ratio. Honestly, the journeymen I work with teach me so much. It's not in a textbook; it's not in the classroom. It's getting dirty and it's what they teach me. I'm doing things this week that I couldn't do last week, and I'm very appreciative of the time my journeymen spend on teaching me. Also what my journeymen teach me, and I don't think another apprentice at the same level could teach me, is they're extremely wise and very safety conscious. There are a lot of times when I become foolish or I just don't know what I'm getting into. I'll walk too close to the edge of the roof and I'll do foolish things. It is always my journeymen I'm working with who take great responsibility for me. They grab me and they say, "Get away from the edge of the roof." They teach me and they are very valuable. I think if we change that ratio and there are more apprentices, we're going to see more accidents. I just don't want to see that. The journeymen help keep the workplace safe.

I gave up a career to come down here as a plumber. I'm university educated and I think I made the right choice. That's why I'm coming here and speaking today. I just had to make this choice last October to leave corporate Toronto and give this a shot. It's tough to see a bill like this passing right now in front of me. It's kind of eroding what I thought was going to be a nice future for myself.

I wish I could explain to you that the people behind me—we're a skilled workforce. The fact is they want to



erode our wages. It takes five years to be a plumber or an electrician, and people work very hard to get that designation. To lower our wages—I'm just going to throw a number out, like \$20, \$21 an hour. I think garbagemen in the city of Windsor, who have zero training and are not skilled, will get paid more than us. I think that's a shame. I just can't tell you enough that it is very tough to do the work we do, and I think the way conditions are now we are compensated fairly. I don't hear the people I work with arguing about our wages right now. We work very, very hard to earn them.

I guess I just don't want to see the hall and what it stands for eroded. In a comparison to some of my non-union counterparts, the hall brings me in for extra training. I think it's 26 weeks of the year I go in for three- to four-hour classes and I learn things above and beyond what my non-union counterparts are learning. I think that makes me a better worker. Comparing it to an automobile, I think the union worker is the Mercedes or the Cadillac. There's room for the little Toyotas and there's room for the Cadillacs, and I think we can all make it.

I think I've said what I want to say. I don't want to erode any of the time for questions. We've heard from people who are owners and union leaders. I think my father and I are pretty much the only workers speaking today. Maybe there are questions that you've saved for this, so I'll give you that opportunity.

**The Chair:** Thank you, Mr Slote. Mr Gill.

**Mr Gill:** First of all, I want to commend you for being here. I think it takes a lot of time, energy and guts to be here, and I thank you. It is our pleasure to be here. Yesterday we were in Sudbury. Sudbury was my fourth trip within the first year, so we try to be out there to listen to people. I think it's a great effort.

One of the things I want to correct is that this is a democratic process; not only this process we're going through but the elections, the election we had June 3 and the elections previously. The advantages—we've seen the effects in the last 15 years of having three different governments, and it is the people's choice. They decide who should be governing at what time, which is great.

One of the things Dan mentioned was that some bad things happened June 3, 1999, to Ontario. In all fairness, some of the speakers earlier said Windsor certainly is doing much better since 1999. I just want to make sure we're on the same page. I think with more jobs everybody benefits.

Your main concern that I've seen coming through is on the mobility clause. Is that correct?

**Mr Dan Slote:** That's correct.

**Mr Gill:** I want to commend you as the fourth generation in plumbing. Things must be good. Only then do you get into the same profession. Otherwise somebody says, "Hey, I'm not getting into that profession." I just wanted to make those comments. You can certainly elaborate on that if you want. It's a good profession, an honourable profession?

**Mr Dan Slote:** Yes, it is. Mobility is one thing when I look at our community—I'm sure that the contractors,

but especially our union representatives here, have spoken about opening up our agreements at will. That's their job and they do it well. I don't want to speak about parts of the bill, but mobility and taking care of our community, families, neighbours and friends here in Windsor—and when I'm retired and up in Haliburton, taking care of people up there, neighbours, friends and family, that's important. But to erode our standard of living through legislation, I find it hard.

**Mr Chris Slote:** If I can add something to that, I don't want people to get the opinion that the workers of Windsor are very nationalistic; we're not. When times are very good here, Windsor opens up its arms and accepts people from all over this country. People from Ottawa, Oshawa, when we have a surplus they are more than welcome to come and work here because I understand that they have a family to feed too. As long as we're eating well and we're doing OK, the workers who are behind me have zero problem in tolerating—I know three years ago my father had a man from London who has a travel card come live with us in our home. There is no hardship. If we have a surplus, we love to keep our contractors happy, to make sure the work gets completed on time. We're not building a big wall at the border. We don't mind.

1410

**Mr Duncan:** First of all, thank you for coming and sharing your thoughts with us. I did want to comment that this is a democratic process, yes, but we need to understand that no Legislature in the country holds fewer public hearings than this one, and no government has held fewer public hearings than this government has, so to pretend that there's some kind of democratic exercise going on really is stretching it a bit.

I do want to say I'm glad to see my colleague the Minister of Labour here. Despite our differences of opinion, I'll give him his due, as it's not often you see a Minister of Labour come down and do these hearings, and I acknowledge that.

We did agree, for instance, to truncated hearings, but only because if we didn't agree to that we wouldn't have had any hearings. I don't think anybody in the opposition likes that. I don't think anybody in the opposition likes, quite frankly, Raminder, what your party has done to our parliamentary democracy. It really is unfortunate.

I want to ask one question, however, because you did allude to something that strikes me. I'm not in your industry. I meet periodically with your union leadership and members, who share issues with me. We do open our arms here, don't we—I'm thinking of the casino project, I'm thinking of our hospital projects; there was some controversy around that—to people coming in from the outside. In fact, if I'm not mistaken, we've had quite a number of people from outside the community. Certainly when the prosperity began here, which was a bit ahead of the rest of the province, I think we welcomed people, didn't we, and the system served those individual members well as the system exists now. Correct me if I'm wrong, but there have also been times in this town when

the auto industry has been down and our guys have had to go elsewhere, and have been able to, perhaps not the way we might like, but the system has worked, by and large, fairly well and in fact we've enjoyed relative labour stability. Would you agree with that, and would you agree that this kind of change ultimately is not going to serve either management or labour?

**Mr Dan Slote:** I'll tell you right now, I've travelled quite a bit, and I know leaving Windsor—I must say, three years ago I went to Kingston to work, and I knew when I got in my vehicle and drove down the 401 that they had full employment and they were looking for a pipefitter. I was able to go to the hall with my referral slip and I was put on a job right away. Come a week from the first Thursday, I was able to go to the bank machine and send my wife some money, so she knew I was doing good. That's one nice thing about instant banking—it works. So she knows that I'm doing fine every Thursday and that she can pay the bills. I've worked in Sarnia, I've worked in London, and, yes, we've been received. By the same token, when people are in trouble and have special needs, I know that Dick Pearn opens up his arms, brings them in and takes care of them.

Just because we're skilled trades doesn't mean we're paying our bills all the time. Two years ago, I was off for five months here in Windsor. I did some travelling, but I collected unemployment for four months. But when it was all said and done at the end of the year, I had to send half of it back because I just happened to find a job and worked like crazy for six months. But in the first part of the year I wasn't too sure where the next cheque was coming from, other than the government. It's a struggle. It's hard. We work hard.

**Mr Christopherson:** Thank you both very much for coming in. Let me say to the parliamentary assistant, in terms of democratic process, the bill itself is insulting enough, but your comments continue to infuriate me when you talk about democracy being the cornerstone of how you operate. There's nothing democratic about taking a political gun, pointing it to the head of the labour movement and saying, "Negotiate or die." There's nothing democratic about that today and there never will be, so let's understand that.

Chris, I want to thank you for articulating the issue of safety, because it has been raised, and it has been difficult for both of us in opposition to make the link, given that safety is really not the primary focus and yet we know there are safety issues. Safety is a priority and primary concern for you and your union and I'm sure some contractors—I have no problem saying that—but it has been difficult for us to make the linkage, and yet we knew at the end of the day it was going to have an impact. Of all the hearings we've had, I think you've made the most concise, legitimate, clear argument in terms of looking at the clause about the ratio of journey-persons to apprentices in speaking to the real issue of where safety could be affected in the workplace. I want to thank you for that because you've made a major

contribution to these hearings in articulating that in the way you have. Being a young apprentice, it could only be done by someone who walks in your shoes. So thank you for that.

Some employers have come in and said, "This is a horrible bill; we're not getting anything out of it." We've had some employers who have come in and said: "It's wonderful. We love it the way it is." We've had other employers come in and say, "We like it because it does things for us, but it doesn't do quite enough." I don't see anything in here, not one thing, that improves the lot of construction workers. So while some employers may not get anything and other employers may get improvements, for the workers there's just one answer: They're losing things.

You've come in here as an individual worker affected by Bill 69. My question to you: Is there something I'm missing in Bill 69 that's an improvement to workers? Certainly the government says it's a wonderful thing. I don't see it. Could you articulate for me whether there's anything in here for construction workers that's a benefit?

**Mr Dan Slote:** I don't see anything. There was nothing to my benefit there at all. To be honest with you, the reason we're here is because we do watch you people. When Chris Stockwell stood up and explained the bill, Chris looked at me and he said: "Dad, do I have a future? Did I make a mistake by leaving Toronto to come to Windsor and start an apprenticeship?" It devastated the two of us. I was glad that, "Yes, you want to be an apprentice, great," but now you take a look at this legislation and there's nothing in it that's going to benefit him or me or, as Dick Pearn said, the industry as we know it.

**Mr Christopherson:** Thank you again for coming in.

#### INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL, ORNAMENTAL AND REINFORCING IRONWORKERS LOCAL 700

**The Chair:** The next presenter is Mr Greg Michaluk, business manager for the International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers Local 700.

**Mr Christopherson:** Before Mr Michaluk takes his seat, if I could let you know, Chair, and anyone else here, that I will have to leave halfway through this presentation because I have to get to the airport. It certainly has nothing to do with my lack of desire in terms of hearing the presentation. But I wanted to explain why they'll see me get up and leave. I want to thank everybody for coming out. This has been the best showing we've had anywhere, and I urge you to stick to your guns.

**Mr Greg Michaluk:** I'll probably be done before you leave anyway. My presentation isn't going to be that long. I anticipate questions, and hopefully I can give some answers.



My name is Greg Michaluk. I'm business manager of Ironworkers Local 700. We represent approximately 850 members throughout southwestern Ontario, specifically in the Windsor-London-Sarnia area. Ironworkers erect structural and miscellaneous steel, install rebar for reinforced concrete and do installations of conveyor machinery and equipment. We've been in the Windsor-Sarnia-London area since 1946 supplying contractors with skilled tradesmen to perform that work. I've been an ironworker and a member of Local 700 for the last 31 years. I've been business manager since January 1992.

1420

I have some general comments. It's not too often I get an opportunity to address government officials. Since I've had this job, I believe 1998 was the first time I took part in a hearing such as this. I got here late, so I didn't hear all the comments. I'm sure a lot of it is going to be repetitious. I hope my comments aren't 100% repetition.

My general comments on the proposed bill—I guess a little bit of history that was heard earlier. I think it was in 1978 when the government basically legislated provincial bargaining for both employer and employee bargaining agencies. Provincial bargaining has been going on for the last 20-some years. In my opinion, it's working well. One of the most important things that provincial bargaining did was create stability in the province for construction projects in regard to wages and working conditions. It allows the employers to have the knowledge of labour costs for—at that time it was a two-year period; now it's a three-year period.

Collective bargaining to the ironworkers: Our provincial collective agreement contains enabling clauses to address particular hardships that may be encountered, as well as to address so-called competitive disadvantages. The ironworker provincial agreement also contains clauses that generally give employers the right to manage their business with full autonomy, such as the right to hire, discharge, transfer, promote and demote employees, as well as determining the location of the workplaces, the materials, methods, machines and tools to be used in the execution of the work. In general, an excellent working relationship between ironworker employers and ironworker employees has been developed and exists at present.

So far in the last 20 years, despite the cyclical nature of the construction industry, of construction work, labour relations have thrived. There have been no major lock-outs or strikes with the ironworker EBAs, and I think that's an excellent record, that we have that type of labour stability.

Then in 1998 the government decided they would attempt to fix what wasn't broken. They started with Bill 55, which was introduced for apprenticeship reform. The government was proposing to tell the construction industry how to perform training, despite the fact that both construction employers and employee reps, in partnership with provincial education-and-training representatives, had led the way with an aggressive, well-organized apprenticeship training program that produced

skilled, productive tradespeople. That partnership is working well to this day, and I suppose, in the government's wisdom, they've back off on that for the construction industry, which was a good thing.

Then Bill 31 was introduced about the same time. The main thrust of that bill was project agreements. That was the first attempt to attack provincial bargaining by basically telling employer bargaining agencies, "If you didn't like the wages and conditions that you originally agreed to with provincial negotiating, then here's another window of opportunity for you." To date, project agreements have done little or nothing to create additional work opportunities, especially in the Sarnia area, where, in my estimation, it probably originated. Billions of dollars of new construction work was supposed to materialize when the legislation passed. At present, there is 75% unemployment of ironworkers in the Sarnia area.

Now along comes Bill 69. Same theme: "If you don't like the wages and working conditions that you originally agreed to, then here's another window for you."

It's interesting to note that those three bills have specifically attacked the unionized construction workers.

I believe that the government should allow employers to accept responsibility for their own actions and the responsibility of managing their respective enterprises, instead of pounding on the workers, saying: "It's your fault. Your wages are too high. Your working conditions are too good."

The ironworker has his own opinion on this, but, most importantly, the ironworker construction tradesman is respectful of and willing to abide by negotiated provincial agreements between the two agencies that we bargain with. It's my belief that the ironworker employers also share that opinion. Abiding by and adhering to negotiated provincial agreements has a proven track record of labour relations stability. This stability promotes job harmony and productivity. They go hand in hand. It's important to note that the opportunity to vote upon and ratify provincial agreements is given to rank-and-file members of both employer bargaining agencies and employee bargaining agencies prior to coming into force. Bill 69 wouldn't afford this important privilege.

In my opinion, Bill 69 will do nothing to promote positive employer-employee relations, thereby undermining established and proven stability in the construction industry.

I'll continue to maintain the same rapport that I have with my employers and continue to address any concerns that will promote additional work opportunities for ironworkers, and this will be done as per the ironworkers' collective agreement that's presently in place, and not through Bill 69.

Some of the comments that I heard earlier: Every construction union negotiates with their employer bargaining agency and what they get at the end of the day, what's agreed upon by both parties, is brought back to their respective memberships and voted on and ratified. It's important that the rank and file do have a say in this.

Like I said, I came in a little late. I heard the words, "This is a democratic process," mentioned more than once. My opinion of a democratic process is: Put the issues before the people. Explain it to them so they have a clear understanding of what's proposed, and the end result is, let them tell you whether they like it or not. What's happening here, from a worker's perspective, is that it's getting rammed down our throats. We've bargained in good faith over the last 20-some years provincially, and now it's not good enough.

That's probably all the comments I have. I am interested in taking questions and trying to come up with an answer for you.

1430

**Mr Duncan:** Thank you, Greg, first of all, for your presentation. Just following up from your comments about how we've had relative stability over the last 20 years, presenters before you predicted that we will see much greater instability in the coming years, once this legislation is passed. Would that be your opinion?

**Mr Michaluk:** Definitely, in my opinion. If Bill 69 goes through as proposed, I've got a game plan on how to work through that. If I have an employer who comes into Windsor and wants to do something on a so-called competitive disadvantage, in theory, through the government, he's going to get what he wants. But I'll tell you I'll do what I can. When that employer leaves this area, he'll never ask me for that again. He won't. It's that simple.

**Mr Gill:** I think you were referring to me about the democratic process or not. Don't forget that some of the other parties, when they were in government, came through with the social contract, took away all the contracts that you had ever negotiated—

**Mr Michaluk:** Not me. Not me.

**Mr Gill:** So I want to put it on the record that—

**Mr Michaluk:** And I'd be saying the same thing to that government that I'm saying to you if they did it to me.

**Mr Gill:** Thank you. I think that's fair. You have your opinion.

In terms of an enabling clause, explain to me a little bit further what sort of concessions you have to make depending on conditions. Give me it in dollars and cents if you can.

**Mr Michaluk:** I've done enabling clauses over the years where we have deducted the wage by 5%, 95% of the wages. I've done enabling clauses in the Ironworkers agreement where we changed the apprentice-journeyman ratio. We're not a compulsory trade. We're not regulated where we have to have X number of journeymen or X number of apprentices. It's contained in our collective agreement it's a five-to-one ratio. I've done things like five to two and five to three.

**Mr Gill:** So those were the conditions where you felt perhaps you were not competitive enough and you had to give these concessions. Is that the scenario?

**Mr Michaluk:** That's right, and that was an agreement between the employees and the employer. It's what

we agreed on and it goes right back to the bargaining for our collective agreement. It's the conditions that we agreed on, on how we'll proceed with a project.

**Mr Gill:** It has worked well in your scenario? You're happy with that kind of arrangement, I understand?

**Mr Michaluk:** I thought at the time and in hindsight it was the best thing to do under those conditions.

**Mr Gill:** Similarly, perhaps in your own mind you're suggesting that people who don't have those enabling clauses will benefit from that?

**Mr Michaluk:** I don't know who has it and who doesn't. I can only speak for the Ironworkers.

**Mr Gill:** No. I'm saying, in your opinion, in your mind, it is a good thing to have and others who don't have it might benefit from that?

**Mr Michaluk:** In my mind, a good thing to have is an agreement between the employees and the employer that both respect and intend to work by.

**Mr Gill:** Something you didn't mention much was the mobility clause.

**Mr Michaluk:** I didn't mention anything on mobility.

**Mr Gill:** Right. Do you have any mobility?

**Mr Michaluk:** Ironworkers have mobility.

**Mr Gill:** What percentage?

**Mr Michaluk:** It's 60-40. A contractor is allowed to bring in 40%. Again, that is an agreement through our collective agreement that the employees and the employers agreed to, brought it to their rank and file, voted on it and ratified it. It wasn't jammed down our throats.

**Mr Gill:** Again, you think that's beneficial, that 40-60 works out well for you?

**Mr Michaluk:** The 60-40 has been in our collective agreement since I've been an ironworker.

**The Chair:** Thank you, Mr Michaluk.

#### WINDSOR ELECTRICAL CONTRACTORS' ASSOCIATION

**The Chair:** The next speaker is Mr Franco Favaro of the Windsor Electrical Contractors' Association.

**Mr Franco Favaro:** Madam Chair and delegates, I am Franco Favaro, president of the Windsor Electrical Contractors' Association, representative to the Electrical Trade Bargaining Agency of ECAO and electrical manager of Fahrhall Mechanical Contractors.

You have already heard representations from various elements of the electrical contracting industry in your travels across the province and should be aware that we are strongly supportive of Bill 69 as a workable model for restoring competitiveness and fairness into the Ontario construction economy.

The Windsor Electrical Contractors' Association fully endorses and supports Bill 69 with respect to provisions on hiring, mobility and the process for making local amendments to the provincial collective agreement. Taken together, these elements of Bill 69 have a potential to restore and revitalize Windsor's electrical contracting industry.



All that is needed is the incentive to make Bill 69 work. Windsor Electrical Contractors' Association recognizes that Bill 69 encourages the labour and management parties to work together to develop their own answers to the issues of hiring, mobility and local competitiveness, and are prepared to work with our labour partners to get the most out of the opportunity that we can.

The Windsor Electrical Contractors' Association agrees with the stand taken by ECA Ontario and other subtrade groups regarding section 160.1 of the Bill. This section gives an employee bargaining agent the right to agree to abandon bargaining rights for individual employers, such as general contractors. This right can be exercised without any consultation, participation or consent of the subtrades, such as the members of the Windsor ECA, who might be adversely affected by their unilateral decision.

While other elements of Bill 69 encourage the parties to come together to solve mutual concerns, the abandonment provisions simply grant complete authority to the unions without reference to the employers, employer bargaining agents or regional employer organizations who will be most affected.

The real solution to the problem of the competitiveness of some general contractors is the competitive improvements that will come from other components of the bill. By definition, the more competitive our companies are, the more competitive any general contractor carrying our price is going to be. Windsor Electrical Contractors' Association believes this is the area where we should concentrate our efforts. By comparison, the union abandonment of bargaining rights is the equivalent of throwing in the towel.

Area associations and individual contractors deserve the opportunity to respond in a timely fashion to the challenges raised by abandonment. Abandonment provisions of any type should not come into effect until after the next round of province-wide bargaining and the local modification procedures are in place.

That said, I would like to repeat that Windsor Electrical Contractors' Association supports the balance of Bill 69 dealing with hiring, mobility and modification to local agreements. Local modification to the provincial agreements is definitely the key provision for the Windsor Electrical Contractors' Association. This is probably because we have had so little success in implementing a market recovery program here.

At the Ontario level, the Electrical Trade Bargaining Agency and IBEW Construction Council of Ontario developed a provincial market recovery program for implementation in each of the 13 local areas. The program enabled the local parties to make modifications to the province-wide agreement in order to achieve competitiveness in markets we have lost or might lose. On a job-by-job basis, each local union had the authority to accept or reject any application. In the areas that implemented the program, it has been successful in winning back about one million working hours per year.

Only two areas did not participate, Sudbury and Windsor. In the case of Windsor, the debate over whether to implement the market recovery program degenerated into an unfair labour practices complaint against the Windsor Electrical Contractors' Association by Local 773, IBEW. At the labour board hearing into the complaint, it was dismissed without hearing as having no merit. Regardless, six months of valuable time and effort has been wasted in this fruitless exercise and we still don't have a market recovery program.

#### 1440

Bill 69 provisions to allow local modifications to provincial-wide agreements are exactly what are needed to bread the log-jam over market recovery in Windsor. The mechanism contains the necessary incentives and procedures to get results. Results are desperately needed here. The Windsor Electrical Contractors' Association represents about 10 member firms and about 10 non-member firms in collective bargaining with the IBEW, Local 773. Most of these contractors specialize in work for the Big Three auto manufacturers. Our collective agreements have become geared to this type of work.

Only two local electrical contractors specialize in commercial and institutional work. My company is one of them. Together we may have about 5% of the commercial institutional market in Essex and Kent. The rest is done by others, most of them originating from outside the jurisdiction in the London area.

On the industrial side, Windsor electrical contractors are fairly successful in the auto plants, but outside the Big Three it's a different story. Even tier one and tier two feeder plants of the automotive industry are dominated by others.

On top of it all, our labour partner, Local 773, is relatively small compared to the overall amount of available work, comprising about 450 members. Windsor electrical contractors perform between 800,000 and 1,000,000 work hours annually with this workforce, making it one of the highest utilized IBEW workforces in Ontario.

This tight labour market, combined with a strong focus on the automotive plants, makes it very difficult to achieve any real success in the light industrial, commercial and institutional marketplace.

Based on what I have described there is no doubt that the people who drafted the bill must have had the Windsor electrical contracting industry in mind at the time. You have already heard of the advantages that hiring and mobility rights bring to our industry and how they generally improve training efficiency and competitiveness. I don't think there is any need to repeat that here. Suffice it to say that we agree with the submissions of ECA Ontario and ECA Northern Ontario on these points.

In the Windsor market, as I have described it, hiring and mobility rights take on different perspectives. Clearly, in our tough labour market situation, and the pull of the auto industry being applied every day, the local modi-

fication provisions simply won't work without hiring and mobility.

As a commercial contractor, how can I attract the workers of the right mindset to stick with me without improving hiring rights? How will we regain major commercial and institutional work in various regions of the jurisdiction without the influx of contractors and workers from other jurisdictions?

In other parts of the province, the three elements of hiring, mobility and local modification are discussed and debated as separate but related items. In Windsor, speaking as a commercial institutional contractor, I see them as a single package. In my world, local modification rights are useless without hiring and mobility.

The importance of the local modification provision to me and to Windsor electrical contractors cannot be overstated. I would like to point out two concerns which, if addressed, will further improve that provision. First is the designation of regional employer organizations. As a bona fide constituent of the Electrical Trade Bargaining Agency, I believe Windsor ECA is the only body that should be designated for the purpose of making amendments to the electrical provincial agreement. I know we have the support of ETBA in this regard.

Secondly, I agree with my colleagues from Sudbury who pointed out that the list of items that may be amended could be too restrictive and lead to unnecessary litigation. We believe that all collective agreement items that impact cost competitiveness should be open to amendment. It might be easier to address the items that cannot be changed.

In summary, the Windsor Electrical Contractors' Association fully supports the government's initiative to revitalize our industry through Bill 69, and in particular the package of hiring, mobility and local modifications that is going to get us back in business.

Windsor electrical contractors cannot support the abandonment provisions of the bill and in that regard is of the same opinion as other subtrade groups. We strongly believe that the solution to the problems 160.1 is meant to address lies in the aggressive application of the procedures in the balance of the bill. I thank you for your time and effort.

**The Chair:** Thank you, Mr Favaro. Minister Stockwell has a question.

**Hon Mr Stockwell:** I appreciate the deputation today. By way of entry into this, I'm sure this is probably not going to make a lot of people too excited in this room, but having met for eight or nine months on this particular issue and seeing study after study, it was very apparent to me in Ontario, practically across the province, that unionized construction jobs were decreasing. They were losing tendered bids in the institutional, commercial and industrial sector to non-union contractors, who were hiring non-union workers.

I went to great trouble to investigate, speak with people involved in the industry and analyze the studies. What was very apparent to me was that there were hiring halls, which used to be busy in the 1960s and 1970s,

operating at 30%, 40% and 50% unemployment rates because the jobs that were being tendered in these areas were being won not by unionized generals or subs but by non-unionized generals and subs. In fact, on balance, the unions, generals and subs said to me, "We can compete within reason, but if we're 20% and 30% over the non-union bid, we can't compete."

The question I have for you is, is this any different from what you see and feel and would argue for me today, or do you see it as something that's completely different from that? I've got to be frank with you: It doesn't make sense to me to have a hiring hall of 500 people and have 100 working at \$40 an hour when you could have a hiring hall of 500 people and have 400 working at \$33 an hour. The question I have is, have you seen this at all or is this just a figment of my imagination?

**Mr Favaro:** In the Windsor area we see a lot of the commercial, light industrial and institutional work going to a non-ECAO representative. We are seeing a vast majority of that work, which we were part of in years past, going to the non-union sector. It seems like it's getting progressively worse, with the understanding that more schools are going to be coming out, the health care system is implementing a fair number of buildings that we will not be competitive in; that is inevitable in this area.

**The Chair:** Thank you very much, Mr Favaro.

1450

#### WINDSOR SHEET METAL CONTRACTORS ASSOCIATION

**The Chair:** The final presenters this afternoon are Mr Brad Vollmer and Mr Mark Haller of the Sheet Metal Contractors Association.

**Mr Brad Vollmer:** Good afternoon. I'm Brad Vollmer, director of the Windsor Sheet Metal Contractors Association and president of Bannon Sheet Metal division of Vollmer and Associates. With me is Mark Haller, president of the Windsor Sheet Metal Contractors Association and president of Spada Sheet Metal. Also present are Pat Devon, director of WSMCA and president of Fahrhall Sheet Metal; Frank Van Oirschot, director of WSMCA and president of Industrial Metal Fabricators; and Al Gauvin, director of Ontario Sheet Metal Association and WSMCA and president of Aldon Sheet Metal Contractors.

Although we are here to speak on behalf of the Windsor sheet metal contractors, the people here with me are members of firms that are multi-trade contractors providing not only sheet metal services but also mechanical and electrical. Several of them also sit on both local and provincial boards of directors and thus understand the ramifications of this bill for all areas in the province. In general, we support the government's initiatives to create a fair and competitive system for everyone to work with in the ICI sector.

Bill 69 is a step in the right direction for achieving improved competitiveness and fairness in our industry. It is



clear that Bill 69 encourages the labour and management parties to work out the specific details of such issues as hiring, mobility and local modifications to provincial agreements.

The only part of Bill 69 that is not process-oriented is section 160.1, which is the vehicle to allow a union to abandon bargaining rights with individual contractors, presumably general contractors. All areas of the province must be treated equally.

The solution for the general contractors to be more competitive is to make their subcontractors more competitive.

I am also concerned that the area associations affected by any abandonment have the opportunity to respond to this new competitive challenge. Any form of abandonment provision should be delayed until after the next round of province-wide bargaining so that its impact can be addressed at the provincial bargaining table and through the local modification procedures in Bill 69. While the abandonment provisions will have some impact here in Windsor, I know, through my constituents at the contractor trade bargaining agencies, that many sheet metal contractors in other jurisdictions will be hard-pressed to survive if the general contractors, their primary clients, are released from their subcontracting obligations to the sheet metal workers' union. It seems ironic that the bill, which should make us more competitive, has the potential through section 160.1 to generate even more competitive challenges.

That said, I return to the overall direction of Bill 69, and on behalf of the Windsor Sheet Metal Contractors Association support the general provisions relating to hiring, mobility and local modification to provincial agreements.

Enabling: The government's initiative on local modifications to a provincial agreement provides a practical method for tailoring broadly applied provincial or local conditions of employment to suit the changing needs of the local marketplace.

The local unionized sheet metal contracting economy has been dominated by the automotive manufacturing marketplace, which periodically requires large numbers of tradespeople in the automotive plants working under tight time frames. This situation results, over time, in collective agreement provisions geared specifically to the needs of this type of work. This reality ignores the fact that other markets with other standards of employment exist and require attention or they will continue to be lost.

For example, Windsor now has 11 Big Three automotive plants. These plants put out a tremendous volume of construction work which can only be completed by companies signatory to a collective agreement. This work employs much of the membership of the Windsor sheet metal union workforce, and as a result there has been little interest for the Windsor sheet metal union to find work outside of the automotive market.

In the past year, the Big Three automotive industry has been on a worldwide supplier reduction campaign which will reduce the number of contractor vendors in Windsor,

but these plants will continue to require the same number of men from the local union. These sheet metal contractors that lose their vendor status at the automotive plants will be required to look for work in the commercial and institutional industry, in which we are not competitive against the non-union contractors.

Without the ability to address the specifics of each market and to fine-tune our agreements to meet local needs over time, we will lose our competitive advantage in one market or the other. With respect to commercial and institutional work there is strong evidence that this is already occurring.

The government's initiative to create a mechanism to address local modifications to provincial agreements addresses this concern.

The Windsor collective agreement requires us to pay 248% of the straight-time wages on overtime shift work. Again, the flexibility provided by local modification procedures will help iron out these problems and avoid the situation for the growth potential of our commercial and institutional marketplaces.

One of the areas of the local modification procedure that requires review is the list of eligible items for modification. The complexity of our agreements and unique working conditions require the ability to amend all terms and conditions of employment that affect our competitiveness. For example, work at the automotive plants requires non-standard work schedules which may not be readily identified on our list of items. For simplicity and to avoid unnecessary litigation, it may be better to state what cannot be changed, such as union recognition, safety, union security etc.

Also, we are concerned about the designation of regional employer organizations that may apply for local modifications. The Windsor Sheet Metal Contractors Association is a constituent member of OSM and effectively represents its members in that forum. In our opinion, where the sheet metal provincial agreement is concerned, Windsor Sheet Metal should be the only designated regional employer agency in the Windsor-Essex-Kent area. Our existence should be a bar to any other group applying to be designated.

With these minor but positive amendments, the Windsor Sheet Metal Contractors Association generally supports the government's initiative to permit local modifications to a provincial agreement. This procedure will make province-wide single-trade bargaining more responsive to local conditions and improve the fairness and competitiveness of Ontario's construction economy.

Mark Haller will address hiring and mobility.

**Mr Mark Haller:** Workers of Windsor Local 235 are dispatched to the employer on a name-hire basis. The government's initiative on hiring is meant to address this issue by providing contractors the right to select up to 60%. Windsor presently has the right to select up to 100%. We trust the government's initiative is to read "select no less than 60%" and also not meant to limit a contractor's right to transfer their current workforce from any project they may have in progress now.

The Windsor Sheet Metal Contractors Association membership is naturally concerned about opening its doors to more competition from outside the area, but at the same time appreciates the new opportunities available to us as a result of Bill 69. Bill 69 will allow Windsor sheet metal contractors a broader range for selling their expertise in other jurisdictions, which will benefit both the contractors and their unionized employees.

To a certain degree, mobility already exists for the workers. In tough economic times, large numbers of local tradespeople travel without compensation to other areas to work. Similarly, when the automotive sector is booming, large numbers of sheet metal workers migrate to Windsor, Ontario. One can expect the same ebb and flow with the mobility provisions in Bill 69, as contractors seek to advance their company and its employees by marketing into new business areas.

To summarize everything we've talked about today, OSM and the Windsor Sheet Metal Contractors Association are supportive of the government's initiatives to improve Ontario's construction industry through Bill 69. With some minor reservations regarding the details, we support the bill as it relates to hiring, mobility and the local modification procedure. We also like the structure of the bill, which leaves much of the fine-tuning to the parties affected. The OSM and WSMCA are committed to using this opportunity to make the theory of the bill work in practice.

Both WSMCA and OSM do have serious concerns about the abandonment provisions. We do not believe that a union or employee bargaining agent should have the right to so radically affect the subcontractor's business without the consent of the affected employer, bargaining agency or regional employers' group.

Thank you very much for letting us speak today.

**Mr Duncan:** Just a couple of minor questions. First of all, we anticipate the government's amendments to the bill tomorrow at 4 o'clock, if I'm not mistaken. That's when we have to have our amendments in.

**The Chair:** All three parties' amendments.

**Mr Duncan:** I just have a little trouble. You said that the recommendations you've indicated are fairly minor from your perspective. From where I sit, just looking at this, they're pretty major issues in the bill, from both sides' perspective, particularly something as sensitive as this. I know that you represent very well regarded employers and firms in this community. I'm having trouble reconciling that position: "We support the bill, but here are the changes we need. These are minor changes." The way I read it, they're fairly significant changes. If they don't go through, you're saying the bill is flawed.

I guess I'm concerned about that because we've heard quite clearly now from a number of people on the other side of the table that this bill is going to lead to a lot more instability in your sector. Can you reconcile those issues for me so that I have a better understanding of where you're coming from?

**Mr Vollmer:** I don't see it causing instability. It's more wording as to, for example, hiring 60%. Presently, we have 100% name-hire.

**Mr Duncan:** I don't want to be argumentative, but as I understand the instability question, what your partners in the industry are saying—your partners being the unions—is that you're going to be faced with a lot more strike action, a lot more work stoppages. In their view, this is going to poison the whole collective bargaining atmosphere.

I'm concerned about that. I think we all agree there are things that can be changed, but my concern specifically would be that we not go back to the pre-1978 situation. Remember that the law as it exists now was brought in for a reason. And it wasn't a problem only in Ontario; it was a problem in Quebec and other places. I'm concerned about that from an economic perspective and what that kind of instability will mean to communities like ours, and indeed the province.

**Mr Vollmer:** I don't see enabling causing that.

**Hon Mr Stockwell:** From the studies I've looked at with respect to the Windsor and Essex area regarding construction work, for the union and non-union sectors, what I've seen is that if the Big Three work, it's virtually all union, and all that union work is done for them. Outside of that, in the industrial, commercial and institutional sectors in this area—and granted, right across the province, for that matter, even into Toronto—there has been a precipitous drop in the amount of union participation in the construction end of things.

By adoption of Bill 69, if the House deems it to be acceptable, would you believe in your mind that one of the benefits that could come of this is that you as a unionized employer would ultimately tender and get more work and, then, theoretically, by getting more work, hire more union people?

**Mr Vollmer:** Absolutely.

**Hon Mr Stockwell:** If that is the case, then—  
*Interjections.*

**Hon Mr Stockwell:** I appreciate the fact that you don't agree. I didn't interrupt any of the deputations. There may be a difference of opinion.

*Interjections.*

**The Chair:** Please, it's getting towards the end of the day. Allow the minister to ask the question.

**Hon Mr Stockwell:** If at the end of the day the game plan is for you to get more work, or any unionized contractor to get more work, ultimately the only people who can work on your site are union members. So by you becoming successful in winning tenders out there in the industrial, commercial and institutional sector, how would it not be beneficial to the union hiring halls? In fact, they would be sending more union people to the job sites.

**Mr Vollmer:** The more competitive we are in the commercial and institutional sectors in picking up more work, the more unionized employees we will employ.



**Hon Mr Stockwell:** Have you seen a drop in the last 10 or 15 years in the amount of work you're doing outside of the automotive industry?

**Mr Vollmer:** Yes.

**Hon Mr Stockwell:** How much of a drop?

**Mr Vollmer:** The number of contractors has dropped dramatically. As far as work volume, I don't want to make that guess, but substantial.

**Hon Mr Stockwell:** Would you be different or is this pretty much right across the entire construction side of things and the union side? Is this just you or is it electrical or is it the—

**Mr Vollmer:** This is mechanical, electrical and sheet metal. Those are the trades I deal with. It's across those industries in my area.

**Hon Mr Stockwell:** Do you have any belief at all that you are an aberration in this province, or is this in fact what's happening across the entire province?

**Mr Vollmer:** From my constituents, I understand this is happening across the province.

**The Chair:** Thank you, Mr Vollmer and Mr Haller.

That's the end of the public consultation. Thank you for your patience, ladies and gentlemen. This meeting is adjourned.

*The committee adjourned at 1505.*

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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 29 May 2000

# Journal des débats (Hansard)

Lundi 29 mai 2000

## Standing committee on justice and social policy

Labour Relations Amendment Act  
(Construction Industry), 2000

## Comité permanent de la justice et des affaires sociales

Loi de 2000 modifiant la Loi  
sur les relations de travail  
(industrie de la construction)



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 29 May 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 29 mai 2000

*The committee met at 1536 in room 151.*LABOUR RELATIONS AMENDMENT ACT  
(CONSTRUCTION INDUSTRY), 2000LOI DE 2000 MODIFIANT  
LA LOI SUR LES RELATIONS  
DE TRAVAIL (INDUSTRIE  
DE LA CONSTRUCTION)

Consideration of Bill 69, An Act to amend the Labour Relations Act, 1995 in relation to the construction industry / Projet de loi 69, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui a trait à l'industrie de la construction.

**The Chair (Ms Marilyn Mushinski):** We'll call the meeting to order. Today we deal with clause-by-clause consideration of Bill 69. Are there any comments, questions or amendments, and if so, to which sections?

**Mr David Christopherson (Hamilton West):** Can I just have a procedural question, Chair?

**The Chair:** Yes.

**Mr Christopherson:** Given that we, once again, as is the norm with this government, have insufficient time to do the kind of job that should be done, may I ask what the recommendation is of the Chair in terms of how we proceed with the limited time there is? There are a lot of different ways to approach this. I'm wondering what you have in mind.

**The Chair:** Obviously it depends on what the committee would like. My understanding is there was an agreement that we would have five days of public hearings, one day for clause-by-clause and that clause-by-clause consideration would be given today. The usual time for this committee is from 3:30 until 6. I'm assuming we will try to deal expeditiously as possible with clause-by-clause consideration for today.

**Mr Christopherson:** I gather then the expectation of the government is that at the end of the allotted time, all the government amendments will be deemed to have been moved and Bob's your uncle?

**Hon Chris Stockwell (Minister of Labour):** I would expect that some time around 5:30 or 20 to 6 the government motions, the NDP motions and the Liberal motions would be deemed to be moved and then you could vote on them as a block. If that's convenient for the

members, that will let you get on the record that you voted in favour of your amendments.

**The Chair:** However, I should remind the committee that it is not time-allocated. Apparently, according to procedure, I cannot allow any kind of motion that allocates time. I'm just suggesting that the committee govern itself accordingly.

**Hon Mr Stockwell:** OK.

**Mr Rick Bartolucci (Sudbury):** We will be going in order as is customary when we do clause-by-clause. However, there may be a few amendments that both Mr Christopherson and I would like to have dealt with independently before 5:30 or 20 to 6. At that time, can we withdraw from the order that we're going through and simply go to a motion to take out what we'd like dealt with independently and voted on separately? Is that all right?

**The Chair:** Yes. It would need unanimous consent.

**Mr Bartolucci:** I think that's why we're asking now, so that we can get that.

**The Chair:** If the committee would agree to that—

**Mr Bartolucci:** I think the minister is in agreement with that.

**Hon Mr Stockwell:** That's exactly as I thought it would work. Around 5:30, or if we're not done and by unanimous consent, all the Conservative motions will be put at once and voted up or down, all the NDP motions will be voted on at once and voted up or down, and then all the Liberal motions will be put and voted up or down.

**The Chair:** If there's unanimous consent for that.

**Mr Christopherson:** Just as a block, though, Chris?

**Hon Mr Stockwell:** It allows you to get on the record for all your amendments—

**Mr Bartolucci:** So we can go out of order in order to make sure there are a few passed. You don't have a problem with that?

**Hon Mr Stockwell:** They can correct me if I'm wrong, but as far as I know, by unanimous consent the committee can pretty much order the business any way they like—unless the clerks give us a different opinion, I don't know.

The clerks are offering advice. The point is, you can reorder, but if you're not finished, you're not finished. All I would like the committee to be cognizant of is that I'd like the government amendments to be put before 6 of



the clock. If we all have that understanding, we can work towards accomplishing our goal.

**Mr Christopherson:** Can I just take 60 seconds to confer with a colleague?

**The Chair:** Yes, certainly.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Madam Chair, if there's a vote in the House at 5:50 or whatever, then I guess we stop and attend to that?

**The Chair:** Yes, we have to.

**Mr Gill:** OK, thank you.

**Mr Bartolucci:** We've decided, Madam Chair, if it's agreeable with the government, that we'll just go in order and towards the end of the time allotted there may be a few motions that we would like to pull and have voted on independently, either yes or no. Then at 5:30 or 5:40 we will vote en bloc.

**The Chair:** Is that OK?

**Hon Mr Stockwell:** That's OK.

**The Chair:** Then we'll begin with section 1. Are there any motions?

**Mr Bartolucci:** In order to try to save time, can I—

**Hon Mr Stockwell:** On a point of order, Madam Chair: The problem is, and I say to the NDP and the Liberals as well, the clerks inform us that you can't vote en bloc. If an amendment is going to be voted on it has to be voted on individually.

**Mr Bartolucci:** Having said that, why don't we just go through these motions with yes or no?

**Hon Mr Stockwell:** See how far we get.

**The Chair:** Hold down what amendments you want held down.

**Mr Gill:** Yes or no; no explanation. Let's move on.

**Hon Mr Stockwell:** He wants to say just how many are going to be before the committee. Let's find out what we have in front of us before we start determining when we're going to break.

**The Chair:** Each amendment has to be read into the record.

**Mr Christopherson:** I was clear; now I can't say that I am as clear.

**Mr Bartolucci:** I think what's happened, what the minister said is that we can't vote en bloc with amendments. They have to be done individually. There are some repeat amendments here, there's no question. If we wanted to spend three minutes getting those out, who cares who puts them through as long as we put them through, at least as long as we suggest it, or just withdraw motions as we go.

**Hon Mr Stockwell:** Why don't we do that as the first order of business, determine exactly what we have before us?

**The Chair:** We'll begin with section 1.

**Hon Mr Stockwell:** No amendments.

**Mr Christopherson:** Are you going by the amendment package? You're going through each section, aren't you?

**Hon Mr Stockwell:** Section by section.

**The Chair:** Yes, we're going section by section.

**Mr Christopherson:** All right.

**The Chair:** The package of amendments should be in order of those sections, Mr Christopherson.

Shall section 1 carry? All in favour of section 1? Opposed? That carries.

Section 2: I believe we have amendments.

**Mr Bartolucci:** Do you want me to go ahead?

**The Chair:** Yes, please.

**Mr Bartolucci:** Do you want an explanation, or just vote on it?

**The Chair:** Do you want it held? Do you want to speak to it?

**Mr Bartolucci:** No, vote on it.

**The Chair:** It must be read into the record first. So read it and then we'll decide if we're going to vote.

**Mr Bartolucci:** I move that paragraph 1 of subsection 126(3) of the act, as set aside in section 2 of the bill, be struck out and the following substituted:

"1. The board may consider any relationship by way of blood, marriage or adoption between an individual having a direct or indirect involvement with one of the entities and an individual having a direct or indirect involvement with any of the other entities but such a relationship shall not be the sole consideration."

**The Chair:** Do you wish to speak to that?

**Mr Bartolucci:** No, that's fine.

**The Chair:** All those in favour? Opposed? That does not carry.

NDP motion number—

**Mr Christopherson:** It's exactly the same amendment, Chair. I would say we just count the same vote. The wording is exactly the same.

**The Chair:** No, it's not moved if it's exactly the same.

**Mr Christopherson:** Just don't move it? OK.

**The Chair:** Liberal motion.

**Mr Bartolucci:** There is no reason to move this one because it has been defeated in 126(3).

**The Chair:** And the same with number 4?

**Mr Christopherson:** Correct.

**The Chair:** Shall section 2 carry? All in favour? Opposed? That carries.

**Mr Christopherson:** Chair, could I ask that from now on they be recorded votes?

**The Chair:** You want each vote recorded?

**Mr Christopherson:** Please.

**The Chair:** We can do that, Mr Christopherson.

**Mr Ted Chudleigh (Halton):** If it's to be recorded, it has to be requested before each vote, doesn't it?

**The Chair:** Is has to be requested each time before the vote.

**Mr Christopherson:** I'm not trying to go back. I'm just saying from here on in if you could make them all recorded. If you want me to say it every time, I can, but it seems silly.

**Mr Chudleigh:** We tried to do that once when I was a Chair.

**The Chair:** So you want it for all of them?

**Mr Christopherson:** Yes.

**The Chair:** Section 3, government amendment 5.

**Mr Gill:** I move that subsection 150.1(1) of the act, as set out in section 3 of the bill, be amended by adding the following paragraphs:

"5. The regional municipality of Durham.

"6. The county of Simcoe."

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That is carried.

Number 6.

**Mr Gill:** I move that section 150.1 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Notice to bargain

"(3.1) Despite subsection 59(1), a notice of desire to bargain may be given any time after December 31, 2000 with respect to a collective agreement that is deemed under this section to expire on April 30, 2001."

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That is carried.

NDP motion number 7.

**Mr Christopherson:** I move that subsections (2), (3) and (4) of the act, as set out in section 3 of the bill, be struck out.

**The Chair:** Recorded vote.

1550

**Ayes**

Bartolucci, Christopherson.

**Nays**

Beaubien, Chudleigh, DeFaria, Gill.

**The Chair:** That does not carry.

Government motion number 8.

**Mr Gill:** I move that section 150.2 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Exception

"(6.1) Despite subsection (6), notice under subsection (5) may be given any time after April 30, 2001 if notice of desire to bargain has been given and both parties agree that it may be done."

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That is carried.

Government motion number 9.

**Mr Gill:** I move that subsections 150.2(8) and (9) of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"If notice given

"(8) If notice is given under subsection (5),

"(a) the parties may jointly appoint an arbitrator or either party may request the minister in writing to appoint an arbitrator;

"(b) if subsection (6.1) applies, the minister shall not appoint a conciliation officer, a conciliation board or a mediator;

"(c) if subsection (6.1) applies and a conciliation officer, a conciliation board or a mediator has been appointed, that appointment shall be deemed to be terminated; and

"(d) subject to subsection (8.1), all terms and conditions of employment and all rights, privileges and duties that existed under the collective agreement that expired on April 30, 2001 shall apply with respect to the employer, the trade union and the employees, as the case may be, during the period beginning on the day on which notice was given and ending on the day,

"(i) a new collective agreement is made or the collective agreement that expired is renewed, or

"(ii) the right of the trade union to represent the employees is terminated.

"Exception

"(8.1) The employer and the trade union may agree to alter a term or condition of employment or a right, privilege or duty referred to in clause (8)(b).

"Minister to appoint arbitrator

"(9) Upon receiving a request under clause (8)(a), the minister shall appoint an arbitrator."

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion number 10.

**Mr Gill:** I move that subsection 150.2(15) of the act, as set out in section 3 of the bill, be amended by adding the following clause:

"(b.1) prescribing the powers of an arbitrator;"



**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion number 11.

**Mr Gill:** I move that section 3 of the bill be amended by adding the following section to the act:

“Director to convene meeting

“150.3 (1) At least twice in each year beginning in 2001, the director of labour management services shall convene a meeting of representatives of employers or employers’ organizations and of trade unions or councils of trade unions to discuss matters of interest relating to collective bargaining and labour relations in the residential sector of the construction industry.

“Selection

“(2) The representatives invited to attend the meeting shall be selected by the director of labour management services in his or her sole discretion.”

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Shall section 3, as amended, carry? Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** Section 4, government motion number 13.

**Mr Gill:** Section 4 of the bill, subsections 151(1) of the act.

**Mr Bartolucci:** I think there’s one before that.

**Mr Christopherson:** Page 12.

**Mr Bartolucci:** Page 12 is a Liberal motion.

**The Chair:** I am advised that this is not a motion; it’s advice: “The Liberal Party recommends voting against section 4 of the bill.”

**Mr Bartolucci:** It’s a motion to be moved in committee.

**The Chair:** It’s advice as opposed to it being a motion.

**Mr Christopherson:** On a point of order, Chair: The leg counsel—I can have my staff person come down here—apparently advised this is the way to word it. I guess there was even some question on the part of our staff. To end up having that advice result in not even an opportunity to vote seems to be somewhat of a miscarriage.

**The Chair:** I am ruling that this is not a motion, advising the Liberal Party to vote against section 4. The vote will come when I read out that section for the vote. I am saying that this is not a motion.

**Mr Bartolucci:** Then there must be some miscommunication between the staff here and the legislative clerk’s staff because there are a lot of these. This is exactly the way they told us to word them, and they would be deemed as motions because they’re motions to be moved.

**The Chair:** Again, it’s not a motion; it’s advice. The advice is, “The Liberal Party recommends voting against section 4 of the bill.” You will have the opportunity to exercise that when you come to vote for section 4.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** I’ve got a question. I have a package in front of me submitted by the clerk’s office, and it says, “Enclosed please find all the amendments received by my office by the committee’s agreed-to deadline of 4 pm May 26,” and it says “amendment p 12.” I take it as an amendment, whether I’m in favour of or opposed to it. I would take it that this is an amendment that has been submitted by the clerk’s office that we have to vote on. If not, why not?

**The Chair:** Because we’re not considering it a motion; we’re considering that it is advice.

**Mr Christopherson:** Could leg counsel perhaps provide a little clarification, Chair?

**The Chair:** Yes, certainly.

**Ms Laura Hopkins:** The heading on the document that says “Motion to be moved in committee.” I think that is misleading. When we are helping members prepare their motions, if a member tells us that what they want is to get a section right out of a bill, we recommend including this piece of paper to flag the member’s intention to vote against the section, which is the procedurally correct way to go. The piece of paper is just to call the attention of the members to the fact that one of the members proposes to vote against the section. It’s not a motion, and unfortunately the heading makes it look like it is. It’s included in the motions package in order to convey the intention of the party which plans to vote against the section.

**Mr Christopherson:** That’s helpful. Chair, if I might—and I appreciate Mr Beaubien offering up his question about this too—can we have unanimous agreement to at least have the statement read, even if we can’t vote on it, just so that it’s in the record? I have some of these too. Obviously as opposition we cared enough about it to at least make the point, and having it on paper doesn’t do anything beyond the life of the paper. If we

could at least have the statement read, Madam Chair, that would be somewhat helpful, I believe.

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**The Chair:** OK.

**Mr Christopherson:** Just within Hansard.

**The Chair:** When I put the question, I will read into the record.

**Mr Christopherson:** Fine.

**Mr Bartolucci:** It might be a lot easier if we do it now, Madam Chair, because this is going to get a lot more complicated. If you check your package—and I'm trying to make it easier—there are an awful lot of recommendations that we thought were motions, and when you start getting into subsections it's going to be very difficult for you to read back all of them. You do what you want, but I say that it may be almost impossible for you to be doing that at the end.

**The Chair:** All right. Committee, do you want unanimous consent to read this into the record right now? Is there unanimous consent? Do you want a recorded vote, Mr Christopherson?

**Mr Christopherson:** Sure.

**The Chair:** I guess you don't vote on a unanimous consent, do you?

**Mr Christopherson:** Unanimous consent would have it read. Ideally we'd like to have a vote.

**The Chair:** So is committee in agreement to have this read into the record?

Section 4 of the bill: "The Liberal Party recommends voting against section 4 of the bill."

Now we'll go to government motion 13.

**Mr Gill:** I move that the definition of "designated regional employers' organization" in subsection 151(1) of the act, as set out in section 4 of the bill, be amended by striking out "regulations" at the end and substituting "Minister."

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion 14.

**Mr Gill:** I move that section 4 of the bill be amended by adding the following subsection:

"(2) Section 151 of the act is amended by adding the following subsections:

"Designation of regional employers' organizations

"(3) The minister may, upon the terms and conditions the minister considers appropriate, designate regional employers' organizations.

"Non-application

"(4) The Regulations Act does not apply to a designation made under subsection (3)."

**The Chair:** Members of committee, my apologies. I should have been saying before each motion, "Is there any debate?"

**Mr Chudleigh:** I kind of like the way it's going.

**The Chair:** Recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**Mr Christopherson:** If I might, Madam Chair, just on the point you made: I at least want to state and get it on the record that this really is just a sham. There's no real debate. There's no time for analysis. If you take the time on each of these to give it what it deserves right now, we're going to get through three or four amendments, quite frankly, to do this job properly on behalf of the people of Ontario. All we're doing now is going through the legal motions of voting, but there's no meaning to it, because there is no debate. We're not asking the government for rationale on any of these because, if we do, important ones later on don't get discussed. Since there's not enough time, I just want to point out that this is really a joke and a sham and a farce, and it's so far removed from the traditional parliamentary process of actually having a little bit of intelligent discussion around some of the amendments and their implications that I feel compelled to at least put on the record my strong opposition to ramming these through in such a short period of time.

**Mr Gill:** Madam Chair, we had five days of public hearings, and a lot of people took an active part in that, and from that we have certain amendments, and as the process says, we are bringing them forward, all parties are, and we're voting on them. I think it's a fair process. Certainly the member opposite has his views.

**Mr Bartolucci:** Just one comment, because we're wasting very valuable time, but the reality with this is that we're not allowing the people who made submissions the opportunity for a fair hearing about what they said, because I know, you know and everybody here knows exactly what motions are going to get passed and what motions aren't going to get passed. If only we had a little bit of opportunity to debate why we think something should be passed or should not be passed. The reality is that if we do that, as Mr Christopherson said—he makes a good point. It's something we should learn for the future. Today it's too late, we've agreed, so we're going to go through it. But we're not debating, and therefore we're missing a valuable opportunity to make this bill, which we consider on the opposition side to be flawed, a little bit better, and so that may be more palatable for some of you people on the government side to be supporting it. However, having said that, let's move on because the die is cast.

**The Chair:** Thank you, Mr Bartolucci.



Shall section 4, as amended, carry? A recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

The next item is a piece of paper that I will read into the record as advice rather than a motion.

Section 5 of the bill:

"The Liberal Party recommends voting against section 5 of the bill."

I have another piece of paper too that I will read into the record.

Section 5 of the bill, section 160.1 of the act:

"The NDP recommends voting against section 5 of the bill."

We have government motion 17, section 5.

**Mr Gill:** I move that section 160.1 of the act, as set out in section 5 of the bill, be struck out and the following substituted:

"Agreement to abandon bargaining rights

"160.1(1) If a majority of employee bargaining agencies that hold bargaining rights with respect to an employer have filed with the minister a written agreement to abandon the bargaining rights held by them and their affiliated bargaining agents with respect to that employer in an area comprising all of Ontario or specified parts of Ontario, the Lieutenant Governor in Council may make a regulation deeming the bargaining rights held by all employee bargaining agencies and their affiliated bargaining agents with respect to that employer in that area to have been abandoned.

"Majority of class

"(2) If a majority of employee bargaining agencies whose affiliated bargaining agents represent employees in the trades other than the civil trades file with the minister a written agreement to abandon bargaining rights with respect to an employer in an area comprising all of Ontario or specified parts of Ontario, the Lieutenant Governor in Council may make a regulation deeming the bargaining rights held by all such employee bargaining agencies and their affiliated bargaining agents with respect to that employer in that area to have been abandoned.

"Effect

"(3) On the effective date of a regulation under subsection (1) or (2),

"(a) all the affiliated bargaining agents to which the regulation applies cease to represent the employees of the employer in the area to which the regulation applies;

"(b) the bargaining rights vested under section 156 in all the employee bargaining agencies to which the regulation applies shall not be exercised for any purpose

relating to the employer in the area to which the regulation applies; and

"(c) all provincial agreements in effect to which the employee bargaining agencies to which the regulation applies were party that bound the employer cease to bind the employer in the area to which the regulation applies.

"Other means of abandonment

"(4) Nothing in this section precludes a finding of abandonment of bargaining rights otherwise than as a result of an agreement or a regulation.

"Subsection 167(1) not breached

"(5) An employee bargaining agency that makes or files an agreement under this section shall not be found to be in breach of subsection 167(1) for having done so, whether the agreement applies with respect to the whole of the province or only a part or parts of it.

### 1610

"Where section 147 not breached

"(6) A parent trade union as defined in section 145 that is a member of an employee bargaining agency that makes or files an agreement under this section shall not be found to be in breach of section 147 because the employee bargaining agency made or filed the agreement or because the parent trade union influenced or caused the employee bargaining agency to do so.

"Where ss 149 not breached

"(7) A council of trade unions that is a member of an employee bargaining agency that makes or files an agreement under this section shall not be bound to be in breach of section 149 because the employee bargaining agency made or filed the agreement or because the council of trade unions influenced or caused the employee bargaining agency to do so.

"Same

"(8) A parent trade union as defined in section 145 that is a member of an employee bargaining agency that makes or files an agreement under this section shall not be found to be in breach of section 149 because the employee bargaining agency made or filed the agreement or because the parent trade union influenced or caused the employee bargaining agency to do so.

"No rescission

"(9) An agreement that has been filed with the minister under this section cannot be rescinded without the permission of the minister

"Agreements made or filed before section in force

"(10) An agreement described in this section that was made or filed before the day section 5 of the Labour Relations Amendment Act (Construction Industry), 2000 comes into force is not invalid because it was made or filed before that day.

"Meaning of 'civil trades'

"(11) In this section,

"'civil trades' means carpenters, labourers, operating engineers, operative plasterers, and rodmen."

**The Chair:** Thank you, Mr Gill. We just need two points to be clarified. On page 2, sixth paragraph, second line, ending in the word "found," you said "bound" or were heard to say "bound." Is it "bound" or "found"?

**Mr Gill:** That should read in the record as “found.” I may have made a mistake. It’s a long amendment.

**The Chair:** Likewise, in the next paragraph, line 2, about two thirds of the way along, the word “found”: We again heard the word “bound.”

**Mr Gill:** It should be “found,” if we may correct the record, please.

**The Chair:** The record will be corrected.

Question, Mr Christopherson.

**Mr Christopherson:** I ask the parliamentary assistant to explain to us the difference between the amendment and what we have, just a short explanation in non-legalese as to exactly what we are doing here that’s not already spelled out in 160.1.

**Mr Gill:** In 160.1, the provision allowing parties to agree to abandon bargaining rights is removed and replaced by regulation-making power. The Lieutenant Governor in Council may make a regulation deeming that abandonment of bargaining rights has occurred if a majority group of affected provincial unions agrees. This group may include all construction unions with bargaining rights for a particular employer or just those representing the non-civil trades. The regulation may apply to all or part of the province.

**Mr Christopherson:** Now would you please just take a moment and move away from the page and explain that in everyday kind of language. Just say it for me.

**Mr Gill:** In the bill before it was voluntary and now it is by regulation. So it’s not voluntary any more.

**Mr Christopherson:** Do I understand what you’re saying is that the government now, by a regulation, will arbitrarily and unilaterally remove the bargaining agent from workers, period? You’re going to pass a law that takes away their union?

**Mr Gill:** Yes, if a majority of them will abandon the rights, then it will be deemed to be—

**Mr Christopherson:** Sorry, when you say “a majority of them,” do you mean the individual members will vote and that’s where you get the majority?

**Mr Gill:** Individual members of the bargaining agency will vote. Yes.

**Mr Christopherson:** Who holds the vote? The union or the government? And what kind of vote? What’s the procedure? How much notice?

**Mr Gill:** It would be up to the unions to deal with that. They will find a method of voting.

**Mr Christopherson:** If I understand correctly, the original language in the bill that was passed at second reading was already for a voluntary abandonment, and I assume that no union would do such a thing without talking to their members and having their members agree this would happen. If that same sort of vote is going to take place, why the necessity to have a regulation which effectively gives the minister, with the support of his or her cabinet colleagues, the unilateral right to remove a union representative from these workers? I don’t quite understand why you’ve taken this next step.

**Mr Gill:** Basically, if the majority of the organizations agree, then they speak for the whole organization.

**Mr Christopherson:** That’s not my question; I understand that part. But if there’s a vote on the part of the individual members anyway—I’m assuming there would have been in the first instance. There is in the second instance because you’ve already said so, meaning the original versus the amendment. The original language already provided that the union then could follow on that action and they wouldn’t be bound by their responsibilities under the Ontario Labour Relations Act in terms of duty to represent. I don’t understand why now you felt the need, based on what we heard during the hearings, to move to a regulation. I’m just trying to understand why we went that way. So far, you’re giving me the arguments for the rationale of why the clause was in the original bill. I haven’t yet heard the rationale of why you’ve moved an amendment that changes it so that now a regulation is part of the process.

**Mr Gill:** I think it’s only fair, Mr Christopherson, that we’re moving to majority rule, and if the majority rules that way, then it’s fair to bring in that—

**Mr Christopherson:** I’m sorry. I’m sure it’s because I’m not being clear as opposed to you dodging the answer. I’m assuming in both instances there would be a majority vote by the members. It’s not spelled out in the first one. I’m assuming that would happen. It is spelled out in the second one. What I don’t understand is why we’ve now moved to a regulation. That wasn’t in the first bill, I don’t believe. If I’m wrong, please correct me. Now all of a sudden we’re moving to a regulation. I’m asking why that is, and I’ll tell you why so you understand why I’m asking these questions. I find it frightening that we’re giving the minister, under any condition in Ontario, the power to pass a regulation that removes somebody’s right to join a union.

**Mr Gill:** Since Mr Christopherson is very concerned about that, can we stop for a couple of minutes and try and get a clear answer for him, please?

**The Chair:** Does the committee want to take a recess for five minutes? OK.

*The committee recessed from 1619 to 1626.*

**Mr Gill:** I think it’s fair, if the member doesn’t remind, to repeat that question, please, and I’ll try and answer that, Mr Christopherson.

**Mr Christopherson:** The original question was just to explain the difference. So far, we’ve identified one main difference. If there are others, I would ask you to point those out. But the point we’re on right now is, why the necessity to move to a regulatory involvement in the amendment that’s in front of us?

**Mr Gill:** Previously it was all voluntary. I tried to explain that. Now we want to make sure that if a majority of the unions agree, then it’ll be deemed that everybody agrees. That’s why we want to bring it in. We are not leaving it for 100% of the people to come on board.

**Mr Christopherson:** Sorry?

**Mr Gill:** We’re saying if a majority of the unions agree, then we’ll consider that as everybody agreeing.

**Mr Christopherson:** We sort of tug at this thing and it unravels further and further. Earlier I asked you if



individual members of these unions were going to get votes. Are you still standing by that?

**Mr Gill:** What I'm saying is—

**Mr Christopherson:** Answer my question, please.

**Mr Gill:** I am. I'm trying to answer it, if you will listen, please.

It is up to the union how they want to gauge the response of their members. We're not going to dictate that. I'm assuming that the unions will go to their members, if they're going to be abandoning the bargaining rights. If they don't want to do that and they want to take it upon themselves, then it's up to them.

**Mr Christopherson:** Are you saying that a majority of the—what? Is there like one vote per union and then it's a majority vote? If the carpenters and labourers agreed, but the operating engineers disagreed, the majority would carry, and those unions that don't want to give up their rights, whether they've had a membership vote or not, you're going to, by law, take away their union?

**Mr Gill:** The majority in every situation will carry. So if it's 50% plus one that agree to abandoning it, then we'll deem it that everybody has agreed, and that is "the majority rules."

**Mr Christopherson:** If I understand correctly, you're talking about one vote per union and there are—help me out, Pat.

*Interruption.*

**Mr Christopherson:** Seven. So there are two more—there's probably an amendment needed here to correct—the civil trades.

*Interruption.*

**Mr Christopherson:** Six? All right.

**The Chair:** OK. Could we keep the discussion in committee, please?

**Mr Christopherson:** I'm just trying to get to the point where if you've got four of these unions agreeing, but two of them don't—stand-alone, complete, autonomous unions in their own right and they don't want to give up their bargaining rights for those workers—the other unions will make that decision and you will give it effect in force of law through a regulation. Do I understand that correctly?

**Mr Gill:** Yes, that is correct; that's very correct.

**Mr Christopherson:** You've got to be kidding me.

**Mr Gill:** No, I'm not kidding you.

**Mr Christopherson:** This is outrageous. You're going to take away the rights, the union rights of members if they decide to hold a vote. I don't want to pick out a trade, because it may create a problem. But let's just say union A holds a vote of its members, and the members vote by majority to retain the union. If the other unions—B, C, D, E and F—vote as a single entity to drop the bargaining rights, or to abandon them, to use your word, then union A and union A members and union A members' democratic vote has no effect, is null and void, is tossed out the window, and somebody else not even in their union makes this decision. Is that correct? You're going to enforce that by law?

**Mr Gill:** If a majority of unions agree to it, which is 50% plus one, any of the members who may have voted against that, yes, they will also be part of that total agreement, even though some of them might have voted against it.

**Mr Christopherson:** Just a minute now. There's a difference between majority rule—we've got to be clear about what we're talking about. We are talking about autonomous unions that stand alone, that exist in law on their own. They are completely stand-alone unions. They make their own decisions, they have their own constitution, they have their own collective agreement. If they voted 100%, for the sake of argument, not to have their rights abandoned by their union, a vote by the other unions takes precedence and they lose their bargaining rights regardless, and you're going to enforce that by law? That's what you're telling me?

**Mr Gill:** Majority rules will carry. In the overall scheme of things, if more unions, 50% plus one, are for it, yes, it will carry whether some of the members may have voted differently in their own unions.

**Mr Christopherson:** I understand majority rule. What I'm having a great deal of difficulty with are two things: number one, that a minister, under any condition, is being given the power by regulation to dissolve, disband, a union, especially in the hands of this government, I might say. But just as a general way of developing labour laws in this province, I find that terrifying; secondly, the notion of majority by someone not even in their union, not even in their trade, deciding whether or not I, if I'm in union A, get to keep my union, and if all my colleagues voted in favour of keeping the union, that doesn't matter to you—somebody else in some other union has decided that my union rights are going to be abandoned. You're going to give effect and force to that by law. That's outrageous. It's preposterous.

Further to that, you're taking care of the general contractors, but what about the subcontractors? They came forward and were pleading to be treated fairly and equally here. I'm not suggesting I'm in agreement with anybody losing their rights here; however, I am asking the question on behalf of the subcontractors, who made a pitch, and I'm asking you if they're going to be untouched by this. Will they still be involved with the unions? The point is, will they be bound by the provincial agreements?

**Mr Gill:** Madam Chair, are we able to defer till the end to come back to this matter? Perhaps we'll get staff to pitch in.

**The Chair:** If you wanted it held down to the end we would need unanimous consent to do that.

**Mr Christopherson:** No. Are you kidding? This is more draconian than I ever expected even Harris would come down with.

**Mr Bartolucci:** Madam Chair, I believe it's important that we deal with it now because there is a sequence that is attached to anything that happens after this. So I think it's very important that it be dealt with now.

**Mr Gill:** If I may reiterate the answer I gave before, the union members may or may not agree within one union. We are giving all the unions together the right, if there's a majority of unions—and hopefully all the workers' rights are equally represented in that sense. Every union is for the workers, and therefore if the majority of unions make a decision to abandon their rights, then we are saying, yes, by regulation we'll agree to the majority rule and we'll carry it through.

**Mr Christopherson:** You tell me where you think I'm wrong in this analogy. If we take steelworkers, auto-workers and OPSEU—just to make it easy, three—this is no different than OPSEU and the steelworkers deciding they're going to abandon rights and the autoworkers not having a choice because they're outvoted, no matter what their members say.

**Mr Gill:** That is correct.

**Mr Christopherson:** Tell me how this is democracy. They're a stand-alone union. They're not in the same union. How can some union vote for another union? How the hell can that be?

**Mr Gill:** Each union is for the workers' rights, and if a majority of unions are agreeing to it, then we deem that everybody is considered to be agreeing to it. I think that's how democracy is; that's how we are all elected.

**Mr Christopherson:** I was elected by the people of Hamilton West. The people on the Mountain had no say, except those who are in Hamilton West. What you're saying is, if there was a majority vote that voted against me but the people of Hamilton West voted for me, I don't get to take my seat in the House. That's outrageous.

**Mr Gill:** Because you didn't have enough members, you didn't form the government.

**Mr Christopherson:** That's not the point here at all.

**Mr Gill:** That is exactly why—

**Mr Christopherson:** That is not the point. You know what? That's no different than saying that the other provinces can decide on their own what happens to Ontario. They are autonomous unions. That is the point here. They are completely separate unions. They have no relationship except they're in the same business, but they run their own. They have their own constitution. How can you pass a law that says someone else decides whether you get to keep your union or not?

**The Chair:** Members of committee, I think this is degenerating a bit into a two-way debate and I would appreciate it, so that we can get this back into committee, if you would direct your comments through the Chair.

**Mr Christopherson:** I would be pleased to defer and give my colleague Mr Bartolucci an opportunity. I'm sure he's just as impressed.

**The Chair:** Mr Bartolucci does have a question.

**Mr Bartolucci:** I've got a couple of concerns. One, we were going to allow for voluntary abandonment of rights and now we're going to regulate the abandonment of rights. To me that changes the whole intent of this section and this bill, and I'm wondering if this isn't a substantive motion which would be deemed out of order as an amendment. I think we need legal advice, because I

see this as changing the entire direction of this bill and I don't know that an amendment is supposed to be able to do that. I thought an amendment was supposed to alter the bill, not change the course of the bill. That in fact does change the entire course of this bill, and that's why I ask that we debate this now.

**The Chair:** I am advised that the motion is within the scope of the bill. It's in order.

**Mr Bartolucci:** This legislation now is rewriting what we deemed as civil trades, then. In the past the bricklayers have been included in the civil trades. They are no longer included in the civil trades. Is that correct, Mr Gill?

**Mr Gill:** Exactly what I said to the member previously. This bill only brings the democratic process forward. If a majority of the unions agree, only then, so it's not a substantial change from the original. It's not.

**Mr Bartolucci:** I think we're missing the point here. I don't want to get embroiled in a conversation, because we'll obviously disagree. This is a substantive change in the direction of the bill. There isn't a tradesperson in the world who will not consider this to be very substantive.

I want to go to the definition of "civil trades," because you are rewriting the definition of civil trades here. You have not included the bricklayers; you have not included the cement masons. To me, you're not only changing the bill in a substantive way, but you're changing the definition of civil trades in a substantive way, which will only create—I might tell you, Mr Gill, honestly—complete confusion in the industry. I would seriously suggest that you withdraw this amendment.

**Mr Gill:** If there is any clarification or amendment that Mr Bartolucci wants to put through, we may want to consider that, or the committee might want to consider that. If we have missed any of the civil trades, perhaps when the time comes—

**Mr Christopherson:** I don't think we can amend your amendment.

**Mr Gill:** No, we're not amending my amendment, but I'm saying if you wanted to put forward later on—

**Mr Christopherson:** We can't amend an amendment.

**The Chair:** Any amendment to an amendment would have to be done by unanimous consent.

**Mr Gill:** I'm willing to put forward on page 3, the very last line, the addition of a couple of subtrades, as Mr Bartolucci has suggested.

**Mr Christopherson:** They will be thrilled to hear they've been tucked into this too.

**Mr Gill:** I will be happy to accommodate that, if you will allow me to read that into the amendment.

**The Chair:** Again, it would be an amendment, Mr Gill, that I would need unanimous consent from committee on.

**Mr Gill:** To include a couple more unions or subtrades, I'm sure they'll agree.

**Mr Beaubien:** Madam Chair, I think some questions have been placed on the floor here. I think we said we were going to take a recess or get a staff person maybe to



give us a thorough explanation of this amendment. Am I correct?

**Mr Gill:** What we requested was that maybe we can defer this particular one towards the end.

**Mr Beaubien:** We did not get unanimous consent on that.

**The Chair:** No, you need unanimous consent.

**Mr Beaubien:** Consequently, we have to deal with this. I would strongly suggest that we have somebody who took part in writing this—because now if we're going to introduce what a civil trade is and we're willing to make a couple of more additions, I may want to put a couple of more additions. I think we need to have this explained to us in a fairly concise manner.

**The Chair:** Mr Gill, would you be able to bring someone?

**Mr Gill:** I will ask for the policy people to perhaps join me in a couple of minutes. If you'll allow me, and if we have unanimous consent, I can perhaps offer to add in a couple of subtrades.

**The Chair:** We could hear from leg counsel.

**Mr Christopherson:** Chair, if the parliamentary assistant is asking for a short recess to allow him to bring in the resources we need to properly deal with this, I'm not going to stand in the way of that.

**The Chair:** Why don't we stand this down for five minutes.

**Mr Chudleigh:** Does leg counsel have something to add to that?

**The Chair:** Apparently not. I was receiving three kinds of advice in both my right ear and my left ear at the time. I think we should take a five-minute recess to clear the ears.

*The committee recessed from 1642 to 1654.*

**Mr Gill:** Madam Chair, a couple of items. I need unanimous consent to add a couple of subtrades to the amendment, if I may, if I have unanimous consent. Then we're going to come back to the question.

**Mr Bartolucci:** Could we do that at the very end? Let's get these clarifications, which may make that a lot easier for all of us to do. Let's clarify the questions we have first with regard to the new 160.1.

**The Chair:** Mr Gill, what you can do is withdraw your amendment and move a new amendment, with unanimous consent.

**Mr Gill:** Before I do that, this is such a small, technical last line out of the three-page amendment—again, I know there are technicalities we have to meet, but nonetheless, I think if we have unanimous agreement—

**Mr Christopherson:** You know what? Let me be very blunt with you. The fact is that you've changed the rules around here so much that we have so little say and so little opportunity to express an opinion that—you need unanimous consent and likely you will get it—first of all we're going to make sure that we start getting some answers about this particular clause.

We will get to it. I think I speak for my friend Mr Bartolucci when I say we will be sure there's adequate time to deal with that amendment, and unanimous con-

sent may indeed be there, but before we give you what you want, we want more answers about the implications of what's being done and why. For one, I still haven't heard why you need to go to a regulation to enforce this when your original proposal upset some of us enough as it was, that there would even be a clause talking about abandoning union rights, but at least it was voluntary.

**The Chair:** Members of committee, I would remind you, please, so that we don't get into unfettered two-way debate, could you please address your comments through the Chair.

**Mr Christopherson:** Sure, through you.

**The Chair:** I am the Chair of this committee.

**Mr Christopherson:** Yes, through you, Chair. I wasn't being facetious. I understand your point.

Through you to the parliamentary assistant: We had enough trouble with the fact that it was voluntary. Now you've decided it's necessary to use a regulation, which is tantamount to law, and you would have the ability, as a government, to enforce that law. I would still like to hear a rationale about why you think it's necessary to go from voluntary, which upset some of us enough, to a regulatory method that has the full force and effect of law. I still haven't heard an answer to that.

**Mr Gill:** If I may try and explain—and I do have the privilege of having staff members here from the policy branch. They may want to reinforce that. Let me try and answer that and, if that's not satisfactory, then we'll ask for an explanation. After that, I don't know what more I can do, to be honest with you. Let me try it one more time.

Yes, we're giving the unions the democratic right to decide, by majority rule, if they want to abandon their bargaining rights. I'm saying the same thing again. I would now like to ask the assistant, Leslie, from the policy branch if there's anything she can add. Then perhaps we'll look at the rest of it.

**Ms Leslie Cooke:** The first question was about the change from the voluntary structure to the regulation structure.

**The Chair:** Excuse me, would you identify yourself for the committee, please.

**Ms Cooke:** My name is Leslie Cooke. I'm a manager with the employment and labour policy branch of the Ministry of Labour.

The structural change that you see serves the policy goal of consistent treatment of employers on this issue, in other words, not having abandonment of bargaining rights by some unions for a particular employer and not others. In the first reading version of the bill, the structure didn't allow that or it certainly didn't ensure that for employers. So the shift was to serve, generally speaking, that policy goal.

If there are any technical questions about the amendment, I'd be happy to answer them as well. I know there were some issues about the committee understanding fully what the impact of the amendment was. So I'd be happy to answer any questions you might have.

**Mr Bartolucci:** Thanks very much for the clarification. Just so the committee knows, you are now suggesting that a bargaining agent, a business agent, can decide whether his workers will lose their bargaining rights? A majority of business agents can decide that? Am I clear here? Because we're getting two answers to that.

**Mr Gill:** You are correct, Mr Bartolucci. The agent could, if he or she wanted to, go back to the union and see if the members agreed or not, or he or she may have that right given to them in their capacity to be that—I'm trying to find the right word—business manager. They may have been given that right to negotiate on their behalf and then they might exercise that right.

1700

**Mr Bartolucci:** I don't know if it's a technical question or not but it's a very important question: How is the individual tradesperson protected in all of this? In any given jurisdiction—it doesn't make any difference where—where are the protections built in for the worker here in the amendment to 160.1? During the break I tried to see where it is, because now from a voluntary you're going to a mandatory abdication of your bargaining rights. Where is the protection for the working person?

**Mr Gill:** This is only in case they choose to abandon that. If they don't choose to abandon that, again, the majority rule will come through. They're only abandoning if the majority agrees, whether they go back to individual members, whether they decide as business managers or whether the heads of the unions decide. I'm going back to the fact that those union heads or business managers I'm sure have workers' betterment in their minds. If they all agree as a majority, then I think they're abandoning the rights.

**Mr Bartolucci:** Again, I go back to the original. You gave me the answer to this already, but honestly, to me, this changes the whole complexion of the entire bill. Do you have legal opinion that this is an acceptable amendment?

**The Chair:** You can be assured that I have received very good, strong legal advice from legislative counsel that this motion is in order—I beg your pardon, procedural advice, not legal.

**Mr Bartolucci:** Procedural advice. What about legal?

**The Chair:** The role of the Chair and of course the clerk in giving advice is to provide procedural rulings, not legal rulings.

**Mr Bartolucci:** There's the dilemma, Madam Chair. I don't want to play games. We don't have enough time to play games and I'm not. I'm having trouble coming to grips with this being an amendment to a voluntary abdication of your rights when now it's going to be mandatory. I understand where you're coming from as the Chair. I just wanted to get that on the record.

**Mr Gill:** Madam Chair, if I may clarify the point slightly: This is voluntary in a sense that the unions have the right as a majority to agree with it or disagree with it, so I think that's where the volunteerism comes in. They can volunteer to agree with it or they can volunteer not to agree with it, as a union.

**Mr Christopherson:** Madam Chair?

**The Chair:** Mr Beaubien.

**Mr Beaubien:** In order that I can proceed along fairly clearly, I would like to get clarification. I think I heard now that the bargaining agent or the business manager, in his or her decision, can represent or vote on behalf of all his or her employees. Is that correct?

**Mr Gill:** Yes, that is correct, Mr Beaubien. He has been given the right to represent those workers, and he has an option of either going back to the membership to see if the majority agrees, or he can choose to exercise his right to vote along with the other unions in a favourable or a negative way. He is accountable to his membership, whether he chooses to go back to them each time or whether he doesn't choose to go back to them each time.

**Mr Beaubien:** I would hope that he or she would go back to the membership, but I personally have some difficulty by not clarifying this particular point. I think the business agent should go back to the membership. I don't think the business agent should make that decision. I may sound like opposition here right now, but I have some difficulties in leaving that responsibility delegated to the business manager or the business agent.

**Mr Gill:** Mr Beaubien, I think your point is very well taken. I think the business manager should have the right to go back to the workers or decide. If you agree, then perhaps he will be going back, but it's their choice. I think you have a good point. I'm not opposing that.

**The Chair:** Minister Stockwell would like to comment.

**Hon Mr Stockwell:** Just to add to the point Mr Beaubien was making, it would seem to me that they are, in a lot of ways, politicians like ourselves and that upon making those decisions it would be incumbent upon them to canvass their membership, as any good politician would, like you would canvass your constituency.

I'm not sure how we could write legislation that would compel a union executive to converse or discuss the issue with his membership. We can only presume that to be the case. If he chooses not to, there is nothing we can do that can compel him to do that. In essence, by passing the legislation or amendment the way it is, the argument is moot in my opinion, simply because it's up to the business agent of that trade or affiliate to canvass his membership any way he sees fit. I'm not about to tell them, by legislation, how it is they are supposed to go about doing that.

**Mr Christopherson:** That's an interesting point of view, Minister, given that previous labour legislation you've rammed down has been predicated on the fact that you were going to force and ensure that votes were taken, and you didn't care what the leadership of that union thought. Not you personally, but your government didn't care what the leadership said. Your government can't have it both ways.

**Hon Mr Stockwell:** Give me an example.

**Mr Christopherson:** For strikes, did you not, in Bill 7? It was up to the unions to decide before and you've now put legislation in—most of them did anyway, but



my point was that the arguments at the time were that they had to go to their members to do it, and there were probably a couple of exceptions that didn't.

**Hon Mr Stockwell:** For a strike vote?

**Mr Chudleigh:** They had a secret ballot.

**Mr Christopherson:** Yes, a secret ballot, and also for automatic certification. That was denied, and you said the argument the Minister of Labour at the time gave was that members have a right to make this decision. We defended the fact that automatic certification ought to be there, but your government removed that based on the argument that there should be a vote each and every time. Why? Because you said at the time, your rhetoric was, that every member deserved a vote. So I have a great deal of difficulty understanding which position the government has. Do the individual members have a right in every instance to have a say, or it is the leaders under the constitution of their union who will say—

**Hon Mr Stockwell:** But—

**Mr Christopherson:** Let me finish, Minister, if I might. I have a great deal of difficulty believing that this isn't just a convenient rationale that you suddenly want to use, that is not consistent at all with the philosophy you've applied to labour decisions as they relate to members.

**Hon Mr Stockwell:** My response would be that if you're talking about a strike vote or certification of a contract, I would think it would be incumbent upon any good government to determine that that should be a decision—

**Mr Christopherson:** Oh, but it's OK to have—

**Hon Mr Stockwell:** Hold it.

**Mr Christopherson:** Just a minute. It's OK to have their whole union abandoned?

**Hon Mr Stockwell:** Can I finish my answer?

**Mr Christopherson:** Since you cut in on me anyway, you might as well finish your answer.

**The Chair:** This is what I mean. It tends to be degenerating again—

**Mr Christopherson:** Through you, Chair.

**The Chair:** Please, would you allow the minister to conclude his response.

**Hon Mr Stockwell:** What I'm saying is that there is some fundamental rationale here. If you have a strike or if you have a ratification of a contract, it seems any reasonable and thoughtful government would suggest that you go to the membership. If you're in fact taking a decision that allows certain parties out of a collective agreement, it seems rational that the business manager or agent may want to discuss this with his union membership. I don't think it's that irresponsible or unreasonable to say that's a decision of the executive of the union or the business manager of the union.

We're not forcing them to do anything. We're saying: "Here are the conditions. If you would like to sign this agreement, you can." Any reasonable person would probably go back and discuss it with his membership. We're not saying you have to; we're just saying that's a reasonable position.

**Mr Christopherson:** But in other circumstances, for a strike, you did say they have to go back.

**Hon Mr Stockwell:** Well—

**Mr Christopherson:** Minister, I listened to you.

**Hon Mr Stockwell:** I know, but I responded. A strike and an arbitration and contract is different. We see it as different.

**Mr Christopherson:** You're suggesting there is a hierarchy of importance and that strikes and ratifying contracts have a higher priority than whether or not you want to have a union. It seems to me that whether or not you want to have a union is the overarching situation. You eliminated automatic certification and said there has to be a vote each and every time, but now some members may find themselves abandoned and they didn't even get a say.

Under this legislation, the amendments you're making today, even if they do get a say—and I'm like you, I think most unions will, but you're not requiring it, as you've done elsewhere; not applying that philosophy here, as you have applied it elsewhere, which is why I've characterized it as rhetoric—even in an instance where the unions do hold a membership vote, if my union voted 100% against being abandoned, but the other trades voted that you are going to be abandoned, my voice and my vote, and those of everyone else constituting 100% of our bargaining unit, don't count. It's going to be people in other trades who decide whether I get to have a union or not. It seems to me that this is pretty dangerous territory to be going into.

1710

First of all, it was bad enough that it was voluntary—Minister, correct me if I'm wrong—but you were putting this clause in the legislation in the first place because if a union did abandon their members, they could be charged with lack of duty to represent under the Ontario Labour Relations Act. This legislation was meant to free them and save them from being held accountable and that, on a voluntary basis, they could abandon their bargaining rights and not be charged.

Now, in the amendments today we've gone a step further, a huge step forward in terms of taking away individual members' rights, and now we're saying that even if I and my colleagues vote 100% to keep our union, some other union can decide that we don't get to keep our union, and you're going to back it up by law with a regulation. I find this very, very dangerous.

I can't express strongly enough how I think certain unions are going to feel. I can recall the IBEW, for instance, locals, I believe—and someone correct me—in Sudbury and in Windsor, rolling in and saying, "We are not going to voluntarily abandon our rights." If those local unions vote 100% to maintain their union, they want their union, other unions could vote otherwise and their union is taken away from them. That's what this is, and you're going to back that up by law. This is frightening stuff.

**The Chair:** Mr Gill, you mentioned that you would like to get unanimous consent to amend your amendment.

I believe the appropriate procedure would be for you to withdraw this and then to add a new amendment with unanimous consent. The reason we need unanimous consent is because committee had agreed—

*Interjection.*

**Mr Bartolucci:** Madam Chair, you'd better clarify this. I don't want to be debating this for the next hour. It's only section 11, not the entire amendment, because if you do the entire amendment, we will not get to another amendment.

**The Chair:** I'm advised, however, because amendments had to be filed by 4 o'clock on Friday, that you need unanimous consent to receive new amendments. The appropriate way to deal with this amendment is to withdraw the current amendment and submit a new one with the added words.

**Mr Christopherson:** On a point of clarification, Chair: My understanding is that the intent of the unanimous consent is to add other trades to what the definition of "civil trades" is here, but I also understand there is some controversy around whether or not these are the appropriate terms and some question of consistency of terms.

However, having said that, I understand that it's unanimous consent. Is there any further unanimous consent for this entire amendment to be carried once you have amended it by unanimous consent?

**The Chair:** No, just unanimous consent to move the new amendment, the procedure of moving the new amendment, because we're past the deadline. However, we will be taking a separate vote, clearly, on the amendment itself.

**Mr Christopherson:** First of all there are a couple of points, if I might, a couple of things I want to put on the record. It's interesting that the government's own rammed-through process—and I realize we agreed to it, and the minister can say, "You guys agreed," but like the unions, we had a gun put to our heads in terms of, "If you want any hearings at all outside Toronto, you've got to give us just one day of clause-by-clause." We felt that gun too. The trades unions aren't the only ones.

But it's interesting that the flaws and cracks really start to show when the government themselves get hoisted on their own petard in terms of the shortness of the time available. We completed hearings on Thursday and the deadline was Friday, and now you've got caught in your own ramming-through.

It's my understanding that adding anything to this list adds more workers who are protected from this clause, so I am going to offer up my agreement to unanimous consent to add simply because it means that more workers are protected. But under no condition should anyone think that one small unanimous consent has anything to do with wanting to grieve this process that is screwing workers big time, screwed them badly enough in the original bill and is screwing them even worse in these amendments.

**The Chair:** Mr Gill.

**Mr Gill:** If I understand it right, I have a couple of options. I suppose the option of just adding into the amendment is not there, even with the unanimous consent?

**Hon Mr Stockwell:** Just move the amendment, add the extra trades in and let's get going.

**Mr Christopherson:** Yes, he wants to cover up his mistake as quickly as possible.

**Hon Mr Stockwell:** No, I don't want to cover up my mistake. Maybe the only mistake we made was recognizing the NDP as a party. Possibly that was our big mistake.

**Mr Christopherson:** That's his true feelings showing.

**Hon Mr Stockwell:** You wouldn't be at the table.

**The Chair:** Mr Gill, you've moved the amendment. Could you read the words please?

**Mr Gill:** I would like to add into the last page, page 3: "Meaning of 'civil trades'"

"(11) In this section,

"civil trades" means bricklayers, carpenters, labourers, operating engineers, operative plasterers, cement masons and rodmen."

There are two words that I am adding in: "bricklayers" and "cement masons."

**Mr Christopherson:** Everybody else is just screwed.

**The Chair:** Excuse me, "cement masons" being one word?

**Mr Gill:** No, two words.

**The Chair:** And "rodmen."

**Mr Gill:** No, "rodmen" was already there, Madam Chair.

**The Chair:** "Rodmen" is the last word, though?

**Mr Gill:** That is correct.

**The Chair:** Mr Bartolucci.

**Mr Bartolucci:** No, "cement masons" goes after "operative plasterers."

**The Chair:** Any debate?

**Mr Gill:** This is where I'm seeking unanimous consent.

**Mr Christopherson:** I have a question on that just before you go on.

**The Chair:** Unanimous consent has been granted.

**Mr Christopherson:** We didn't vote. We didn't give unanimous consent yet. He asked for it. He has moved it.

But before you move to the request for unanimous consent, I have just a quick question. It's relatively minor, but I've noticed that most governments have been trying to use gender-neutral terms. We now fairly regularly use "journey person" where for decades it was always "journeyman." But I notice "rodmen" in here and I just wondered if there was any reason why there wasn't an attempt—I realize some people think it's funny, but overall it's going to make an important improvement in our society, and this is a small piece of it. I'm just asking the question, is there a reason why we didn't try for gender-neutrality on this?

**The Chair:** Is there any legal—

**Ms Elizabeth Baldwin:** I'm sorry; I apologize. I was distracted. Could you ask the question again?



**Mr Christopherson:** I was noting that most governments in recent years have been attempting, whenever legislation is amended, to try to use gender-neutral terminology. As an example, when we did the apprenticeship bill, I believe it was Bill 55, we used the term “journey-person,” as much as it sounded really strange and still sounds a little unusual to some people because for probably hundreds of years it has been “journeyman.” It’s now “journeyperson” in the act.

I noticed there has been no attempt to make “rodmen” gender-neutral. I was merely asking if there was a particular reason why.

**Ms Baldwin:** No, there wasn’t. You’re quite correct that we do try to make it gender-neutral, and we haven’t in this case. It’s a term that I wasn’t aware of before. If there is a term “rodperson” and we’re doing this amendment, we could make that change as well. I’d need to have some agreement—

**Mr Christopherson:** I don’t know whether it’s “rod-der,” like “fisher.” I don’t know. I’m not an expert in the field. It just jumped out at me.

**Ms Baldwin:** I don’t know what the proper term would be in gender-neutral language.

**Hon Mr Stockwell:** Madam Chair, I think they took the term from the Ontario Labour Relations Board’s definitions. At the board they’re determined as “rodman,” so if we change it we might not be covered by the Ontario Labour Relations Board definition of a rodman.

**Mr Bartolucci:** We should take that under advisement and go with “rodman,” but he’s right; there’s absolutely no question he’s right.

**Hon Mr Stockwell:** I’m not arguing with him.

**The Chair:** OK. So noted.

**Mr Christopherson:** Now you want our reluctant unanimous consent.

**The Chair:** Now, do we have unanimous consent? All in favour of unanimous consent? OK.

Is there any debate on the motion? No.

We have to vote on the amendment as read by Mr Gill. Recorded vote. All in favour of the amendment?

#### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

#### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

Shall section 5, as amended, carry? Recorded vote.

#### Ayes

Chudleigh, DeFaria, Beaubien, Gill.

#### Nays

Bartolucci, Christopherson.

**The Chair:** Section 6, any debate? Shall section 6 carry? Recorded vote.

#### Ayes

Beaubien, DeFaria, Gill.

#### Nays

Bartolucci, Christopherson.

**The Chair:** Section 7. Minister Stockwell.

1720

**Hon Mr Stockwell:** It seems fairly obvious that we’re not going to get to the end—

**The Chair:** I was going to call you “Stockman.” Sorry.

**Hon Mr Stockwell:** Stockperson.

It seems fairly obvious that we’re not going to get to the end of the government motions right now. I was wondering if we could get unanimous consent to move the rest of the government motions and then use the rest of the time to deal with the opposition motions?

**Mr Christopherson:** What would the point be?

**Hon Mr Stockwell:** So that we can get to them, and then at the end of the day we could adjourn at 6 o’clock and have the bill as amended sent back to the House.

**The Chair:** I’m sorry but I’m advised, Minister Stockwell, that they must be read into the record.

**Hon Mr Stockwell:** Then can I move, by unanimous consent, that we simply deal with the government motions from now on in to get them read into the record and adopted, and at 6 o’clock pass the bill to send it back to the House.

**Mr Christopherson:** And if that doesn’t happen, Chair? If we just keep debating and it’s not concluded, it’s my understanding they’re deemed to have been moved anyway.

**Hon Mr Stockwell:** No, we’re not under time allocation. They’re not deemed to be moved.

**The Chair:** No.

**Mr Christopherson:** So what happens to this committee hearing? If we don’t follow the minister’s request, what exactly happens at 6 o’clock?

**The Chair:** My understanding is, first of all, that there is a vote at 10 to six.

**Mr Christopherson:** In the House?

**The Chair:** Yes. So committee will have to adjourn for that vote. If the committee does not agree to coming back at 6 o’clock the next time we meet—oh, no, because we need—if it doesn’t finish today, that means that the next time we continue this will be at 3:30 tomorrow.

**Mr Christopherson:** That’s the regularly scheduled—

**The Chair:** My understanding is that that’s the next regularly scheduled meeting of this committee.

**Mr Christopherson:** Fine.

**Mr Gill:** If you’ll allow, I’ll be happy to read in the government amendments very quickly.

**Mr Christopherson:** No, you won't.

**Hon Mr Stockwell:** Why?

**Mr Christopherson:** Because we've got a lot to talk about here.

**Hon Mr Stockwell:** So you're not going to do it today?

**Mr Christopherson:** Why should we?

**Hon Mr Stockwell:** Because you agreed to do it. You gave me your word.

**Mr Christopherson:** Well, you said at 6 o'clock these things were all going to be wrapped up.

**Hon Mr Stockwell:** No, no. You can only wrap up the agreement. We're not under a time allocation motion. You gave me your word we'd wrap up.

**Mr Christopherson:** All right, listen. You asked, before, to read them all ahead of time so that we could debate yours and then we could spend time on ours. But if you have no intention of supporting them, what would the point be?

**Hon Mr Stockwell:** Hold it. All I'm—

**Mr Christopherson:** Why don't we just take a motion deeming all the government amendments to be made, vote and get out of here?

**Hon Mr Stockwell:** Because that's not in order.

**Mr Christopherson:** I've got to tell you something.

**The Chair:** It's not under time allocation.

**Mr Christopherson:** It seems rather silly to me that we would pass the government motions and then pretend that we're giving any kind of serious attention to the opposition motions when you have no intention of supporting any of them anyway.

**Hon Mr Stockwell:** Have we supported any yet?

**Mr Bartolucci:** No, not yet.

**Hon Mr Stockwell:** Have we dealt with—

**Mr Bartolucci:** No we haven't.

**Hon Mr Stockwell:** I'm not so sure that we aren't going to support at least one or two of the amendments.

**Mr Christopherson:** What if we don't get to them before six o'clock?

**Mr Bartolucci:** Can we try to find some common ground? I have no problem having the government motions read in. I will not be supporting them, with the exception of one, because I think it's one that the building trades want with regard to benefits. But then I would suggest that both Mr Christopherson and I would like to ensure that there is no 18-month review. We'd like those recommendations read into the record and voted on at that time—a minimum of that one. Any others that we see fit to get to, we can prioritize. The reality is—

**Mr Christopherson:** It just seems to me, if I can, Rick, that if we have the government motions read and vote on them, we'd have to identify quickly any opposition amendments that are going to be supported—you're saying that there might be one, Minister—and if that's the case, fine. But to go beyond that just gives credence to this charade because they have no intention of supporting our other amendments. What's the point?

**Hon Mr Stockwell:** OK, then let's just do the government amendments and the one or two that you want to bring at the end.

**The Chair:** We've got 20 minutes. Why don't we just, as quickly as possible, proceed through the amendments?

**Hon Mr Stockwell:** We don't have time.

**The Chair:** You don't have time—

**Mr Christopherson:** No. If I could find any way at all to take myself off the hook of the agreement we made, I would gladly do it, but the fact is that we said there would be—in order to get to travel to Windsor and Sudbury, which we did during our constituency week, took away from our constituents, we agreed that there would only be one day on clause-by-clause. If we're going to do this, let's at least do it efficiently. I would agree with reading the government motions, and let's see where we are in terms of time.

**Hon Mr Stockwell:** Thank you.

**Mr Christopherson:** I don't really want your thanks.

**The Chair:** Do we need unanimous consent to vary the order? Is there unanimous consent from all members of committee to proceed with the government motions to be read into the record?

**Mr Gill:** Yes.

**Mr Christopherson:** Reluctantly.

**The Chair:** Members of the committee, the advice I'm receiving is that, because there are so many different amendments to each section, it's counterproductive to deal with just the government motions in those sections because you still have to deal with both the NDP and the Liberal motions within those sections, because you can't vote on the sections in total until those amendments have been dealt with. I'm going to recommend that we proceed through each section before us and see where we end up. We can deal with government motion 20, but we cannot vote on section 7 until we've dealt with all of the other motions. That's what I'm saying.

**Mr Christopherson:** This is just so sad. It's a sad, sad commentary on the state of democracy in this province, really.

**The Chair:** Let's deal with NDP motion 18. Is there any debate?

**Mr Gill:** Madam Chair, just one second. If I may recommend—I'm not sure if the members will agree—perhaps they want to withdraw the amendments and then we can move on the government amendments only.

**Mr Christopherson:** Sometimes you've got to wonder why we bother having the House and committees at all.

**The Chair:** You're suggesting that the NDP and Liberal amendments be withdrawn?

**Mr Gill:** Perhaps they might want to. I'm just suggesting if they want to, then it might expedite the whole process, but it's up to them.

**The Chair:** I don't hear any offers.

**Mr Bartolucci:** The reality is that this ends at 6 o'clock anyway. That's the deal to me: It just ends at 6 o'clock. So, however we're going to get to an ending,



let's get there, because right now I don't think anybody in Ontario thinks what we're doing is democratic.

**The Chair:** NDP motion 18: Any debate? It has to be read into the record.

**Mr Gill:** Or he can withdraw it, Madam Chair.

**Mr Christopherson:** It breaks my heart to agree with him, but I will. I withdraw.

**The Chair:** That's withdrawn. Liberal motion 19.

**Mr Bartolucci:** I'll withdraw.

**The Chair:** Government motion 20.

**Mr Gill:** I move that paragraph 1 of subsection 163.2(4) of the act, as set out in section 7 of the bill, be amended by striking out "and benefits" at the end.

**The Chair:** Recorded vote.

#### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

#### Nays

Bartolucci, Christopherson.

**The Chair:** Liberal motion 21.

1730

**Mr Bartolucci:** I move that paragraph 1 of subsection 163.2(4) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

"1. The wage package, overtime pay and shift differential."

**The Chair:** Any debate? Recorded vote.

#### Ayes

Bartolucci, Christopherson.

#### Nays

Beaubien, Chudleigh, DeFaria, Gill.

**The Chair:** That did not carry.

NDP motion 22.

**Mr Christopherson:** I move that subsection 163.2(4) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

"Restriction re amendments

"(4) The application may seek only amendments that concern wages, including overtime pay and shift differentials."

**The Chair:** Any debate? A recorded vote.

#### Ayes

Bartolucci, Christopherson.

#### Nays

Beaubien, Chudleigh, DeFaria, Gill.

**The Chair:** That does not carry.

Liberal motion 23.

**Mr Bartolucci:** Withdraw.

**The Chair:** Government motion 24.

**Mr Gill:** I move that subsection 163.2(4) of the act, as set out in section 7 of the bill, be amended by adding the following paragraph:

"6. Hours of work and work schedules."

**The Chair:** Any debate? Recorded vote.

#### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

#### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

NDP motion 25.

**Mr Christopherson:** Withdraw.

**The Chair:** Liberal motion 26.

**Mr Bartolucci:** Withdraw.

**The Chair:** NDP motion 27.

**Mr Christopherson:** Let me just note it's a waste. An awful lot of expensive legal time has just gone out the window. Because the government doesn't want to give us time to deal with this, I withdraw it.

**Hon Mr Stockwell:** No, the government didn't, actually. We made a deal.

**Mr Christopherson:** You forced us like you forced them.

**The Chair:** NDP motion 28.

**Mr Christopherson:** It's not fair. We're talking about fairness, Chris. I withdraw.

**The Chair:** Liberal motion 29.

**Mr Bartolucci:** Withdraw.

**The Chair:** NDP motion 30.

**Mr Christopherson:** Withdraw.

**The Chair:** NDP motion 31.

**Mr Christopherson:** Withdraw.

**The Chair:** Government motion 32.

**Mr Gill:** I move that subsection 163.3(1) of the act, as set out in section 7 of the bill, be amended by striking out "employer bargaining agency or a designated regional employers' organization having members who carry on a business in the area covered by the affiliated bargaining agent's geographic jurisdiction" and substituting "applicant."

**The Chair:** Any debate?

**Mr Christopherson:** I'm not looking to hold things up, but there was a lot of discussion around this, a lot of concern. Can we get a quick answer from the minister on what this does?

**Hon Mr Stockwell:** That just means that instead of having two or three final offers, you only have one, and if there's a precedent necessary, the precedent is that the applicant makes the final offer rather than any of the other boards or agencies or commissions. So there will only be two final offers, one from the union and one from the employer.

**The Chair:** A recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Liberal motion 33.

**Mr Bartolucci:** I withdraw it because it was dealt with in the previous motion.

**The Chair:** Liberal motion 34.

**Mr Bartolucci:** Withdrawn.

**The Chair:** Government motion 35.

**Mr Gill:** I move that subsection 163.3(4) of the act, as set out in section 7 of the bill, be amended by striking out “even if the organization was not the applicant.”

**The Chair:** Any debate? A recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion 36.

**Mr Gill:** I move that subsection 163.3(5) of the act, as set out in section 7 of the bill, be amended by striking out that portion of the subsection before clause (a) and substituting the following:

“Service of notice

“(5) The organization making the referral shall serve the notice of referral and the statements and submissions referred to in clause (2)(c) on the affiliated bargaining agent and shall serve a copy of the notice of referral without those statements and submissions.”

**The Chair:** Any debate? A recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Liberal motion 37.

**Mr Bartolucci:** I withdraw Liberal motions 37, 38, 39, 40 and 41.

**The Chair:** You can’t withdraw 38. That’s a government motion.

**Mr Bartolucci:** Oh, excuse me. It was a nice try, though, eh?

**The Chair:** That was a test, was it?

**Mr Bartolucci:** It was.

**The Chair:** OK, you’re withdrawing 39, 40 and 41?

**Mr Bartolucci:** Yes, and 42.

**The Chair:** Government motion 38.

**Mr Gill:** I move that subsection 163.3(6) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

“Service of response

“(6) Within seven days after being served with a notice of referral, the affiliated bargaining agent,

“(a) shall serve a response on the organization that made the referral; and

“(b) shall serve a copy of the response, without the submissions, if any, referred to in clause (7)(c), on the organizations described in clauses (5)(a), (b) and (c).”

**The Chair:** Any debate? A recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion 43.

**Mr Gill:** I move that subsections 163.3(15), (16) and (17) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

“Other organizations

“(15) The organization making the referral shall advise the arbitrator of the names and mailing addresses of the organizations that were served with a copy of the notice of referral under clauses (5)(a), (b) or (c).”

**The Chair:** Any debate? A recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

**Mr Bartolucci:** Madam Chair, I withdraw motions 44, 45 and 46.

**The Chair:** Mr Bartolucci has withdrawn 44 through 46. Government motion 47.

**Mr Gill:** I move that paragraph 5 of subsection 163.3(24) of the act, as set out in section 7 of the bill, be struck out.

**The Chair:** Any debate? A recorded vote.

**Ayes**

Beaubien, Chudleigh, DeFaria, Gill.

**Nays**

Bartolucci, Christopherson.

**The Chair:** That carries.

**Mr Bartolucci:** Madam Chair, I withdraw motions 48, 49, 50 and 51.



**The Chair:** Withdrawn. Government motion 52.

**Mr Gill:** I move that subsection 163.3(28) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

"Failure to serve an organization

"(28) If the arbitrator becomes aware that an organization that shall have been served with a copy of a notice of referral under subsection (5) or a copy of a response under subsection (6) was not so served, the arbitrator shall arrange for service on that organization."

**The Chair:** Mr Gill, for the record, would you confirm that you said "shall" rather than "should" under "Failure to serve an organization," line one? I did hear you say "shall" have been served, rather than "should." Should it be "should" or "shall"?

**Mr Gill:** That word should be "should."

**The Chair:** Fine. For the record, we'll note that it should be "should."

Any further debate? A recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion 53.

**Mr Gill:** I move that subsections 163.3(29) and (30) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

"Arbitrator's powers

"(29) Subsection 48(12) applies with necessary modifications with respect to the arbitrator."

**The Chair:** Any debate? A recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

Government motion 54.

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**Mr Gill:** I move that subsection 163.3(32) of the act, as set out in section 7 of the bill, be struck out and the following substituted:

"Decision

"(32) After considering the submissions and final offers which he or she may consider under this section, the arbitrator,

"(a) shall determine whether the provisions of the provincial agreement render employers who are bound by it at a competitive disadvantage with respect to the kind of work, the market and the location indicated in the application;

"(b) if the arbitrator finds that the provisions of the provincial agreement render employers who are bound by it at a competitive disadvantage, shall determine whether the competitive disadvantage would be removed if the provincial agreement were amended in accordance with either of the final offers;

"(c) if amendment of the provincial agreement in accordance with only one of the final offers would remove the competitive advantage, shall select that final offer;

"(d) if amendment of the provincial agreement in accordance with neither of the final offers would remove the competitive disadvantage, shall select the final offer that most reduces the disadvantage; and

"(e) if amendment of the provincial agreement in accordance with either of the final offers would remove the competitive disadvantage, shall select the final offer that would be less of a deviation from the provincial agreement."

**The Chair:** Any debate? Recorded vote.

### Ayes

Chudleigh, DeFaria, Beaubien, Gill.

### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

Liberal motion 55.

**Mr Bartolucci:** I withdraw Liberal motion 55.

**The Chair:** Withdrawn. Government motion 56.

**Mr Gill:** I move that subsection 163.3(33) of the act, as set out in section 7 of the bill, be amended be struck out and the following substituted:

"Timing of decision

"(33) Subject to subsection (35), the arbitrator shall give his or her written decision to the parties and any organizations that were served under subsection (5) or (28) within 12 days after the day on which he or she was appointed."

**The Chair:** Mr Gill, I think that should be "amended by striking out and the following substituted." Do you agree with that?

**Mr Gill:** I would like to correct that second line—

**The Chair:** Where it says "be amended be struck out."

**Mr Gill:** "Be amended by striking out."

**Hon Mr Stockwell:** It's struck out. Let's go.

**The Chair:** But it does have to be read into the record, Minister. I'm sorry.

Is there any debate? Recorded vote.

### Ayes

Chudleigh, DeFaria, Beaubien, Gill.

### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

**Mr Bartolucci:** I withdraw 57.

**The Chair:** NDP motion 58?

**Mr Christopherson:** Withdrawn.

**The Chair:** Liberal motion—

**Mr Bartolucci:** I withdraw Liberal motions 59, 60, 61, and 62.

**The Chair:** Shall section 7, as amended, carry?  
Recorded vote.

### Ayes

Chudleigh, DeFaria, Beaubien, Gill.

### Nays

Bartolucci, Christopherson.

**The Chair:** That carries.

Moving to section 8, government motion 63.

**Mr Gill:** I move that section 163.5 of the act, as set out in section 8 of the bill, be struck out and the following substituted:

“Election

“163.5(1) A provincial agreement shall be deemed to include the following provision with respect to an employer who is bound by it if the employer so elects:

“1. Up to 75 per cent of the employees who perform work in fulfilling a contract for construction in the industrial, commercial and institutional sector of the construction industry may be individuals who were hired by the employer without referral from or selection, designation, assignment or scheduling by or the concurrence of the affiliated bargaining agent in whose geographic jurisdiction the work is performed.

“2. For the purpose of article 1, no more than 40% of the employees who perform work in fulfilling the contract may be individuals who are not members of the affiliated bargaining agent in whose geographic jurisdiction the work is performed.

“3. The percentages set out in articles 1 and 2 must apply with reference to the number of employees of the employer who perform work under the provincial agreement on each day during the period in which the contract is being fulfilled.

“Scope of election

“(2) The election may be made with respect to one or more or all of the construction contracts that the employer fulfills using employees who perform work under the provincial agreement.

“Manner of election

“(3) An election under subsection (1) shall be made by giving written notice of the election to the employee bargaining agent that is party to the provincial agreement.

“Restriction re: membership in local”—

**Mr Christopherson:** On a point of order: I'm sorry. I've got to go up. I know when the bells ring we adjourn the House; we don't adjourn them for the voice vote. I

have to be there to be one of five standing to force a vote on something. I withdraw item 70 and, for the record, I'm against everything else that the government is putting forward. I've got to go.

**The Chair:** Carry on, Mr Gill.

**Mr Gill:** Thank you, Madam Chair.

“Restriction re: membership in local

“(4) Nothing in article 1 of the provision set out in subsection (1) permits an employer to employ an individual who is not a member of the affiliated bargaining agent in whose geographic jurisdiction the work is performed if,

“(a) the provincial agreement would prohibit that employment; and

“(b) the employment of the individual is not permitted under article 2 of the provision.

“Restriction: membership in affiliate

(5) Nothing in article 2 of the provision set out in subsection (1) permits an employer to employ an individual who is not a member of an affiliated bargaining agent that is subordinate or directly related to the same provincial, national or international trade union as the affiliated bargaining agent in whose geographic jurisdiction the work is performed if the provincial agreement would prohibit that employment.

“Inconsistency

“(6) Subject to subsection 163.4(3), a provision in a provincial agreement that is inconsistent with an article in the provision set out in subsection (1) is, to the extent of the inconsistency, of no effect.

“Decreased percentages

“(7) An employee bargaining agency and an employer bargaining agency may agree that an employer may not make the election under subsection (1) or may agree to either or both of the following:

“1. That article 1 of the provision set out in subsection (1) shall be read as if it referred to a specified percentage less than 75 per cent.

“2. That article 2 of the provision set out in subsection (1) shall be read as if it referred to a specified percentage less than 40 per cent.

“Restriction re: impasse

“(8) No strike or lockout shall be called or authorized because there is a failure to reach an agreement under subsection (7).

“Increased percentages

“(9) An employee bargaining agency and an employer bargaining agency may agree to any or all of the following:

“1. That article 1 of the provision set out in subsection (1) shall be read as if it referred to a specified percentage of more than 75 per cent.

“2. That article 2 of the provision set out in subsection (1) shall be read as if it referred to a specified percentage of more than 40 per cent.

“3. That article 3 of the provision set out in subsection (1) shall be read as if it required the percentages set out in sections 1 and 2 of the provision to be applied with reference to the total number of employees of the employer who perform work under the provincial agreement



during the entire period in which the contract is being fulfilled.

“Non-application of section

“(10) This section does not apply with respect to a project agreement made under section 163.1.”

**The Chair:** Any debate? Recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria.

### Nays

Bartolucci.

**The Chair:** That carries.

**Mr Bartolucci:** Madam Chair, I withdraw motions 64, 65, 66, 67, and 68. I believe the recommendation that the Liberal Party recommends voting against section 9 of the bill has all-party support. Can we vote on that?

**Hon Mr Stockwell:** We vote on section 8, as amended.

**Mr Bartolucci:** Section 9.

**Hon Mr Stockwell:** I know, but we vote on section 8, as amended.

**Mr Bartolucci:** We did already.

**The Chair:** No, we haven't done government motion 73 yet.

*Interjections.*

**The Chair:** Section 7—did we do that as amended? OK. Section 8.

**Mr Gill:** Madam Chair, if I may, I may have misread something in the record: page 54, under section (c), the second-last line. Let me read that: “final offers would remove the competitive disadvantage,” it should have said.

**The Chair:** I need unanimous consent to reopen that section. All in favour? Mr Gill has changed “advantage” to “disadvantage,” page 3.

All in favour? That carries.

Section 8, as amended? Recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci.

**The Chair:** That does not carry.

*Interjections.*

**The Chair:** That does carry. I was just doing that to see if you were awake, Minister.

Section 9.

**Mr Bartolucci:** This is a Liberal recommendation, Madam Chair. It recommends voting against section 9 of the bill, and I believe we have all-party support for that.

**The Chair:** All in favour?

### Ayes

Bartolucci, Beaubien, Chudleigh, DeFaria, Gill.

**Mr Bartolucci:** I withdraw motion 71.

**The Chair:** Does section 9, as amended, carry?

**Hon Mr Stockwell:** There is no 9 any more.

**The Chair:** Sorry. Section 9 was voted against, so it has been struck.

Shall section 10 carry? Recorded vote.

### Ayes

Chudleigh, DeFaria, Beaubien, Gill.

**The Chair:** That carries.

Shall section 11 carry, the title? Recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci.

**The Chair:** That carries. Sorry, Mr Bartolucci.

**Mr Bartolucci:** That's not a problem.

**The Chair:** Shall the long title of the bill carry? Recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci.

**The Chair:** Shall Bill 69, as amended, carry? Recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci.

**The Chair:** That carries.

Shall I report the bill, as amended, to the House? Recorded vote.

### Ayes

Beaubien, Chudleigh, DeFaria, Gill.

### Nays

Bartolucci.

**The Chair:** That carries.

May I have a motion to adjourn.

**Interjection:** So moved.

*The committee adjourned at 1754.*





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Mr Ted Chudleigh (Halton PC)

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale PC)

#### Also taking part / Autres participants et participantes

Mr Chris Stockwell (Etobicoke Centre / -Centre PC)

Ms Leslie Cooke, acting manager, BPS, Employment and labour policy branch, Ministry of Labour

#### Clerk / Greffière

Ms Susan Sourial

#### Staff / Personnel

Ms Laura Hopkins and Ms Elizabeth Baldwin, legislative counsel

Ms Elaine Campbell and Mr Avrum Fenson, research officers, Research and Information Services

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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 5 June 2000

# Journal des débats (Hansard)

Lundi 5 juin 2000

**Standing committee on  
justice and social policy**

Subcommittee report

**Comité permanent de la  
justice et des affaires sociales**

Rapport du sous-comité



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

Présidente : Marilyn Mushinski  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 5 June 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 5 juin 2000

*The committee met at 1539 in room 151.*

**The Chair (Ms Marilyn Mushinski):** I call the meeting to order. Members of the committee, before we get into the agenda, I would just like to take this opportunity to extend a welcome and greetings to a delegation from the Midwestern legislative exchange. In attendance are Senator Bob Cupp, Senate President Pro Tem from Ohio, who is the Co-Chair of the Midwestern Legislative Conference Midwest-Canada Relations Committee; Senator Leigh Herington, assistant minority leader from Ohio; Senator John Hottinger, majority whip from Minnesota, Chair of the Midwestern Legislative Conference; Senator JoAnn Johnson, Iowa, Chair of the Senate Ways and Means (Tax) Committee; and Ilene Grossman, assistant director, Council of State Governments. They are here on an official program visit to the Legislative Assembly of Ontario, and we wish, collectively I'm sure, on all of our parts, to welcome you to this afternoon's meeting.

## SUBCOMMITTEE REPORT

**The Chair:** This is a standing committee on justice and social policy committee meeting to consider the report of the subcommittee on Bill 74. What is the wish of committee?

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** Can we have questions and comments on the subcommittee report, Madam Chair?

**The Chair:** We first need a motion to move the report.

**Mr Joseph N. Tascona (Barrie-Simcoe-Bradford):** I move the report for approval by the committee.

**The Chair:** It needs to be read. Would you please read it, Mr Tascona?

**Mr Tascona:** "Your subcommittee on committee business met on Thursday June 1, 2000, to consider the method of proceeding on Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience, and recommends the following:

"(1) That, pursuant to the time allocation motion passed on May 31, 2000, the committee meet for the purpose of conducting public hearings in Barrie on June 7, 2000, from 10 am to 12 noon and in Ottawa on June 9,

2000, from 9 am to 5 pm, subject to confirmation of travel bookings.

"(2) That each caucus provide to the clerk of the committee by 5 pm on Friday, June 2, 2000, a list of 10 names of individual/groups to be invited to appear before the committee at the morning sessions of Wednesday, June 7, 2000 in Barrie and Friday, June 9, 2000, in Ottawa.

"(3) That witnesses for the afternoon session in Ottawa be chosen by the Chair and the clerk of the committee by lottery.

"(4) That individuals be allotted 10 minutes and groups 15 minutes.

"(5) That the clerk be authorized, in consultation with the Chair and the subcommittee as necessary, to schedule witnesses and to make all arrangements necessary for public hearings.

"(6) That amendments be tabled with the office of the clerk of the committee by 5 pm on Friday, June 9, 2000, and that the amendments be distributed to the committee members by 10 am on Monday, June 12, 2000.

"(7) That, pursuant to the time allocation motion passed on May 31, 2000, the committee meet on Monday, June 12, 2000, from 3:30 pm to 6 pm for clause-by-clause consideration of the bill.

"(8) That the legislative research officer prepare a summary of witness's recommendations by Thursday, June 8, 2000, for the Barrie presentations and by Monday, June 12, 2000, for the Ottawa presentations."

**The Chair:** Thank you, Mr Tascona. Ms McLeod, you had questions.

**Mrs McLeod:** It's interesting that we should have a delegation observing the way the democratic process is supposed to be working in the province of Ontario today.

I will not be supporting the report of the subcommittee. I will voice my opposition even though I recognize the fact that the subcommittee was constrained by the time allocation motion which set the terms of reference that could be considered for these hearings. But I nevertheless want to put on record our very strong opposition to the time allocation motion and the fact that it makes the work of this committee virtually meaningless in terms of serious consideration of the bill. Simply look at the timelines set out in the report of the subcommittee: that the time allocation motion on this bill was passed on May 31, that two days later anybody who wanted to make representation to the committee hearings



had to have filed their intent to make a representation, which gave exactly two days to circulate to the only two communities that are going to have an opportunity to have public hearings on this bill—two days to circulate that information to individuals and to give them the opportunity to respond before the cut-off time of Friday, June 2.

We are obviously—and we have expressed this before, but this is our only opportunity to put it on the record—extremely concerned that there are only going to be two communities in which hearings will be held, one of them for a half day, one of them for a full day. There will be no government-held legislative committee hearings in the city of Toronto, let alone in other major communities across the province. The Chair and the members of the committee may know that because of that, there is currently a Liberal hearing being held as we speak on the floor above us so there can be at least some opportunity for people who are concerned about this bill to have public input to voice that concern.

I am equally distressed that the time allocation requires that the final day of hearings, which of course is on Friday of this week, following the half-day Wednesday in Barrie—that the final day of hearings will be on Friday, in Ottawa. Again, I recognize that the subcommittee and this committee have no choice in this, that it's the time allocation motion passed by the government. But that time allocation motion says that on Monday at 10 o'clock—remember, the last day of public hearings is Friday afternoon—amendments have to be tabled. That is an absolutely ludicrous time allocation motion. It says we are not prepared to consider amendments to this bill and we're not prepared to take seriously anything that we might have heard in the equally ludicrous day and a half of public hearings that have been provided on this bill. Obviously, if you have public hearings that wind up on Friday afternoon in Ottawa and your amendments have to be tabled, tabled in properly drafted legislative form, appropriately numbered for presentation, to be considered in clause-by-clause in committee that afternoon—it is impossible to put amendments into that form based on anything that may be heard by the committee in its one day of hearings in Ottawa on Friday.

I don't know why we're even bothering to have clause-by-clause consideration of the bill, because it will be meaningless—unless the government is prepared to have some amendments brought in and has already prepared the amendments. If that's the case, if the government has amendments prepared, then I would respectfully ask that we be allowed to see the amendments well in advance of that Monday morning. However, I don't believe there are amendments sitting in the wings, so I'm not going to hold my breath to see those.

Meeting on Monday, June 12 from 3:30 to 6 pm for clause-by-clause consideration of the bill is basically asking this committee to go through a rubber-stamping process. Once upon a time, legislative committees actually fulfilled a role of taking government legislation, holding public hearings, listening to the public delega-

tions, listening to the concerns and determining what amendments it might consider. In fact, we have another committee, the general government committee, meeting to consider a bill which properly should have been in front of the social and justice committee, given its focus on health care. It's having hearings on the Mental Health Act. In that situation, the hearings were held before second reading. There's ample opportunity—at least we believe there is—for amendments to be presented and considered before that bill goes into clause-by-clause consideration.

I deeply regret that on a piece of legislation with the kind of significance that Bill 74 will have, the government has not seen fit to allow any time at all either for public hearings or for a reasonable process of amendment or for this committee to give any kind of due consideration to the bill. So I will vote against the recommendations of the subcommittee, but it's in recognition of the fact that it's a time allocation motion passed by the government that I am raising my concerns.

Before I conclude, Madam Chair, I do have a question. I would ask whether the clerk could provide us with information on how many individuals have requested to make representation before this committee, how many communities would be represented in those requests, and how many individuals can in fact be accommodated in the day and a half of hearings that we now have scheduled?

**The Chair:** Do you have the information as to the numbers?

**Clerk of the Committee (Ms Susan Sourial):** We had approximately 450 requests.

**Mrs McLeod:** By Friday at 4 o'clock?

**Clerk of the Committee:** By Friday at 5 o'clock.

**Mrs McLeod:** So 450 requests. Do you know how many communities would be represented in those requests?

**Clerk of the Committee:** About 12 communities that had more than one or two requests.

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**Mrs McLeod:** Twelve communities had more than one or two requests. I understand that there may have been as many as 87 communities that would have had at least some requests, at least an individual request. Can you tell me how many we are going to be able to accommodate of those 450 requests?

**Clerk of the Committee:** I can only get an approximate number.

**The Chair:** It's kind of difficult because the subcommittee agreed that there would be 15 minutes allocated for groups and 10 for individuals. As you can see from the subcommittee report, in Barrie we were to split between the three parties based upon the lists submitted by the three parties; in Ottawa, the same process would be followed for the morning, but in the afternoon it would be done on a lottery basis. You've got the rough numbers, but you'll have to bear with us if—

**Mrs McLeod:** I was not looking for the actual list of people who have been selected through the process. I

assume that's not finalized. I guess I was asking if the clerk had done the division into the length of days to tell us how many time slots we have.

**Clerk of the Committee:** We've got approximately nine groups or individuals on Wednesday, and Friday morning about 18 approximately, and then Friday afternoon, in the low 20s.

**Mrs McLeod:** Say 21 or 22? For a total of—a quick calculation would be about 49 or 50 of the 450. So as of Friday at 5 o'clock, 450 individuals or groups had requested to make representation on this bill. We'll accommodate about 50 and leave 400 out.

Can I assume that your office is still continuing to get calls, since Friday was a very quick cut-off? Have you had numbers of calls after Friday at 5 o'clock?

**Clerk of the Committee:** I've had six calls.

**Mrs McLeod:** OK. Is it possible, finally, to get the list of all those who had requested to make presentation to the committee?

**The Chair:** I actually was requested that by the clerk this morning. My understanding is that there is a clerk requirement that these not be released unless there is approval by the committee. I am waiting for a letter from the clerk, actually, confirming the standard procedure for the release of that information. I'm still awaiting that. However, clearly, if there is support of this committee to release that information, that would be fine. But I do appreciate that there are some clear reasons why that information is not released by the clerk, not the least of which is that, as I understand, the information should be used only for the purposes of addressing the committee. I don't know if you would like to shed any further light on that, Ms Sourial, but I am still awaiting that official confirmation from the clerk.

**Mrs McLeod:** If I may, the subcommittee has already departed from normal procedure, because the normal procedure in any committee hearings that I've participated in would be to have received the list of presenters and have the subcommittee meet following the cut-off date. Once you've got the cut-off date, the subcommittee meets, the subcommittee has access to the numbers and names of individuals who wish to make representation, and the selection by each of the parties is done from that list. So the list is given to each of us so we know how many people and what groups and individuals wanted to make representation. That's normal procedure. We had a situation here where the subcommittee met before the cut-off date for the submission of requests to present because of the hurried timelines of the time allocation motion. I would suggest that in normal procedure, we would have had access to the list of those who had requested after the cut-off was finalized.

**Clerk of the Committee:** Lists were distributed on Friday to all three parties in the morning, and a list in the afternoon was distributed as well to all three parties, from which they were to choose.

**Mrs McLeod:** So is there any problem with giving us a final list as of the cut-off, then?

**Clerk of the Committee:** Lists are distributed so that members can choose who they would like to speak. Now, because that date has passed, normally we would not be distributing the list to committee members after the deadline.

**Mrs McLeod:** But normally, the subcommittee wouldn't meet to choose the names until after the deadline.

**Clerk of the Committee:** And because the subcommittee had agreed that 5 o'clock on Friday would be the deadline for their lists to come in, based on lists that were submitted to us, the subcommittee members made their decision at 5 based on those lists that were sent out.

**Mrs McLeod:** I appreciate the dilemma. The problem is that you had to agree to meet prior to the final cut-off date, because we would have put the clerk in an impossible position to notify people who were going to present if they had left it any longer. It wasn't something that was desirable. This whole thing is just such a departure from anything which could be considered serious committee hearings that I don't know what more to do with it except to continue with our own separate hearings.

**Mr Tascona:** Mrs McLeod did not attend the subcommittee meeting. That was attended by Mr Smitherman. Mr Smitherman was even aided by a staff in terms of how to deal with this matter. He agreed to everything that is in these minutes. Everything was fully discussed with Mr Marchese, who is not here. I was also in attendance. The entire procedure set out in this subcommittee report was fully discussed, fully agreed upon. I take issue with the member castigating on what was an agreed three-party process at that subcommittee meeting. We did the best we could in the circumstances. There was full agreement—I can say it was unanimous—in terms of how we were going to proceed.

With respect to dealing with this matter, there has been consensus reached. I understand the member's position, and I understand that she didn't attend. Mr Smitherman did attend on behalf of the opposition party and made the decisions that were in agreement with their other members. I really fail to understand how she can come here today and say that the process that was followed through at that committee meeting, which she did not attend, is not in order, was not proper, in fact saying that what we did there was not consistent with what procedure would be. We determined what was going to happen there in consensus mode.

I would like to proceed with this matter, but obviously the member wants to speak again, so I will relinquish the floor at this moment. But she did not attend.

**Mrs McLeod:** I would have interrupted on a point of privilege, but there's not much point. The member should realize full well that, as most members are on a Friday, I was in my riding, following up on all of the predetermined meetings with constituents in my riding. It is also highly unusual for a subcommittee of the Legislature to be holding its meetings for organizational purposes on a Friday, which is normally the day that those of who are out of town are not able to attend.



**Mr Tascona:** We held it on a Thursday at 12 noon.

**Mrs McLeod:** I'm sorry, then. I was—

**Mr Tascona:** Why don't you read the minutes, and you can see when we met.

**The Chair:** That's enough, Mr Tascona. Carry on, Mrs McLeod.

**Mrs McLeod:** In that case, my concern—I was under the impression the subcommittee met on a Friday—is that the subcommittee met 24 hours before the deadline for submissions for presenters. So there is a significant list of people whose names we do not have who have asked to make representation to the committee.

Secondly, I would say to Mr Tascona that there is no member of our caucus who would be in agreement for a single moment with the time allocation motion which set the terms of reference for these public hearings. I made it very clear, in expressing my opposition, my reasons why we'll vote against the subcommittee report, that my objections were clearly to the time allocation motion and

that the subcommittee had little alternative but to set the terms of reference within that time allocation motion. Of course there is an agreement as to how you're going to deal with an impossible situation. That doesn't make this any less of a travesty of a democratic process. For that reason, in principle, I will vote against the subcommittee report, and I am absolutely confident that our critic and Mr Smitherman, who acted on our behalf at the subcommittee, would agree with the principle of this.

**The Chair:** OK. So we'll take the motion to accept the subcommittee report of June 1st. All in favour? Opposed? That carries.

So we will be meeting at 10 o'clock on Wednesday, June 7, from 10 am until 12 at the Holiday Inn in Barrie.

May I have a motion to adjourn?

**Mr Tascona:** Motion to adjourn until Barrie on Wednesday.

*The committee adjourned at 1600.*





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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 7 June 2000

# Journal des débats (Hansard)

Mercredi 7 juin 2000

**Standing committee on  
justice and social policy**

**Education Accountability  
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**Comité permanent de la  
justice et des affaires sociales**

**Loi de 2000 sur la responsabilité  
en éducation**



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

Présidente : Marilyn Mushinski  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Wednesday 7 June 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mercredi 7 juin 2000

*The committee met at 1000 in the Holiday Inn, Barrie.*EDUCATION ACCOUNTABILITY ACT, 2000  
LOI DE 2000 SUR LA RESPONSABILITÉ  
EN ÉDUCATION

Consideration of Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience / Projet de loi 74, Loi modifiant la Loi sur l'éducation pour rehausser la qualité de l'éducation, accroître la responsabilité des conseils scolaires devant les élèves, les parents et les contribuables et enrichir l'expérience scolaire des élèves.

**The Chair (Ms Marilyn Mushinski):** I call the meeting to order. Good morning, ladies and gentlemen. This is the standing committee on justice and social policy. We are considering Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience.

Individual deputants this morning will have 10 minutes to speak and groups will have 15 minutes to speak. I know there are some members here who have cell phones. They can be quite disruptive to both delegates and committee members, so I would ask that you please turn your cell phones off.

TIM CRAWFORD

**The Chair:** The first speaker this morning is Mr Tim Crawford.

*Interruption.*

**The Chair:** No, this is strictly to hear from deputants. You can certainly hand in written submissions right up until Friday. Any written submissions that are forwarded to the committee clerk most certainly will be read by the committee.

*Applause.*

**The Chair:** Ladies and gentlemen, I'm going to ask, please—we have two hours to hear from delegations this morning. I do not want any demonstrations of any kind. It is disruptive to the speakers and to committee. To afford everyone a fair chance to address this committee, I'm asking that the rules that apply in the House also

apply in this committee. So I don't want any applause; I don't want any demonstrations of any kind.

Mr Crawford.

**Mr Tim Crawford:** Thank you, Madam Chairperson. It's certainly a privilege to come and talk to such a group about such an important topic; that is, education. As a general overview of what I'm about to say, I think, unfortunately, we've got to finish the job, and I think this bill is one more step in finishing the job that the government has undertaken over this past six or seven or eight years.

I want to go back to what I consider to be—and this might sound a little off-topic but it will come to the point—the Dark Ages of education in the 1970s and early 1980s, in which the system—and I'm going to talk about the system, not individual teachers—was extremely weak. There was very little curriculum, there were very few program guides as to what should be covered, particularly in elementary school; not in secondary school so much. We had Hall-Dennis, we had all kinds of initiatives out there, "Go at your own rate" and so on. It's absolutely remarkable that this current government has changed the very culture of elementary school education, because at one time the notion was that as long as the teacher was in the classroom and doing something, that was good education.

Now there are standards, there's a program, there are benchmarks. I think the public in general—and I, certainly, as an educator—are absolutely delighted with that. I, as a secondary school teacher, received from the elementary panel students who were unable to write paragraphs, who were unable to do simple percentages. The government has changed the very culture. Superintendents of education said at one time that this "Do your own thing" was just perfect. Now superintendents of education have turned right around and said, "Oh, yes, we've got to get down benchmarks; we've got to get standards and so on."

The government has done a remarkable thing. Bill 160—or is it 106? I've forgotten now—in which a lot of housekeeping was done and a lot of things were cleaned up was important. There are still, apparently, gaps in this. Unfortunately—and I say unfortunately—we've come to this Bill 74. As a professional educator, I feel badly that it had to occur. I think a professional will walk into that school and do the job in the classroom and extra-curricularly, as they should. It's really sad that we have to put something in writing in this Bill 74. I think it's unfortunate that this has occurred, but I think it's now



necessary based on what I've heard, that students in some school systems are not able to have band practice, extracurricular activities, phys ed and so on. This creates an inequity throughout the province. If teachers are not going to voluntarily do that, then I guess we have to put it in a more formal way.

Notice I said "more formal." I think it's already in the teacher's contract and in the Education Act, in which the teacher will do anything pertaining to the school and the education of the child as directed by the principal. I think that's already there. It's unfortunate, therefore, that this has to be more formalized and put in legal text.

I think it's necessary. I used to be a school board trustee and we used to be frustrated in that we didn't have clear tools to get things accomplished with respect to reform and change in the educational system. But the educational system is changing, and changing dramatically. It's exciting. It's sound. If this is one more tool necessary, then we should proceed with it. Again, I say with regret that we have to come this far, but apparently this is part of our current culture of conflict and disagreement and all kinds of other things that I certainly disapprove of.

I have one concern with the bill itself, and it's perhaps through my ignorance. I am concerned about part 3, subsection 2.2(b), in which, if I read this correctly—and again, I don't have all the background on this—it seems to imply that a teacher will, on any day of the week—Saturday or Sunday or a school holiday or a civic holiday—be required to perform some task in school. I think I understand why that's in there, but I'm wondering if the wording should be changed.

If I were writing it—and I'm not a lawyer and I'm not in the Ministry of Education right now—I would have tried wording such as the following. I don't have this written out, but it would be along this line: A teacher "will assist in any school function as authorized by the principal or as authorized by the school board." I would replace part (b) with something along that line. If the students are away on a week's trip to Europe or to Ottawa or out west or whatever, certainly the teacher is "on duty" on Saturday and is on duty on Sunday. There's no doubt about that. I think this is what the goal is. But just on its bare face, it's very unfortunate wording. Therefore, if it could be worded—it might not be able to be—along the line that the teacher will perform those duties at any time as long as it is an authorized school function, then it gets back to the school council, it gets back to the principal, it gets back to the board and ultimately the minister who has approved all the school functions to determine whether the function is valid or not.

That's my only concern. But again, I have to commend the current government for the guts it's had to change the very culture of our educational system, particularly in the elementary panel, and the excellent initiative it's had in revising secondary school education—a very tough task. I think it has done an admirable job with a couple of slight flaws. But we're making good

headway. I'll stop at that point and entertain any questions.

**The Chair:** Thank you, Mr Crawford. Actually, your 10 minutes is up so we don't have time for questions, but we thank you.

1010

#### TORONTO EDUCATION ASSEMBLY

**The Chair:** The next speaker is Shelley Carroll from the Toronto Education Assembly. You have 15 minutes, Ms Carroll.

**Ms Shelley Carroll:** Thank you. Good morning, Madam Chair and members of the committee. I'm Shelley Carroll. I'm a parent from the former North York and I'm chair of the Toronto Education Assembly. We talk to teachers; we talk to education workers; we talk to parents; we talk to grandparents; we talk to students. We don't meet very often, especially this year. We have found that people are just too busy. So we write. We have a regular newsletter. I contribute 3,500 words a month to it myself to do a blow-by-blow of school boards' actions in Toronto. I complain. I complain about the school board big, large, and on a monthly basis. I even sometimes work in some complaints about you at the end of the paragraph. I'm supposed to complain. I'm Canadian. That's what Canadians do. They complain about the system. But it doesn't mean we want it to go away. We don't want it to go away.

What Bill 74 does in a very subtle way—I don't think the media have picked up on it yet, but it is going to make school boards go away. That's really all I want to talk about today with the generous amount of time allotted me. I wish some of my time had been allotted to secondary teachers. They have a lot to say about this bill. But I trust they will get their message across. I'm in favour of organized federations, organized labour. I live in the western world and I know they are at the heart of why the western world has the standard it does, and I know they will find a way to get their message to you.

I'm not going to talk to you about extracurriculars because I know that students will talk to you. The students who talked to the Toronto Education Assembly would like you all to mind your business. They would like you to leave things as they are because many of them are enjoying exactly the way extracurriculars are handled right now.

What concerns us most is the heart of this bill. While it hasn't been covered, we think the heart of this bill is the measures against the school board trustees to muzzle them, to take away their freedom of speech, to take away their ability to make decisions that will really impact the children in our system. It's really going to be so far-reaching that it overrides all of the other measures in this bill. Their ability to do anything about those, to mitigate the effects that will come about because of the other measures, will be gone. That's important to me on a personal level as well, and the TEA is happy to let me talk about my personal situation today.

I am the mother of a disabled child. She is autistic. She will always be autistic, long after I'm gone. She needs to live in a city and in a society that is inclusive, that is loving and that is able to nurture her when her parents aren't here to do it any more. That's not going to exist without publicly funded education. Citizens who make up a society like ours come from an inclusive, publicly funded education, and that comes from taxes. I have to pay my taxes. I don't pay them because I need a road, because I need a hospital. I pay them because I want that whole society, and I'm willing to keep on doing it to make sure there is a publicly funded education system there. And what I want in it is local control, because I need a representative I can call on to be my ombudsman, to be my advocate, regardless of what political party is in fashion. That's what Egerton Ryerson was getting at and that's what I need. I need to know that I can call on my education representative because there's something wrong right now, and I need to know that he's sitting at the table where decisions are made and that he can actually do something about it.

Now, I know trustees don't always get their way, but they're a lot closer to getting their way if they are sitting around a non-partisan table and they are able to lobby their colleagues and to make something happen.

I don't believe that these measures are necessary because trustees were fiscally irresponsible. In fact, before this system that exists today, I was complaining then. In my area, I thought they were already being too fiscally responsible. There were things I wanted that I couldn't have, and I think that what was happening when I entered the education system with my first child in 1990 was that parents were just beginning to realize that it's our job to make sure that happens. We need locally controlled education, and we had begun to realize, in the 1980s and in the early 1990s, that it was our job.

I'm willing to take the blame. If anybody was at fault, it was parents. I'm a tail-end-of-the-baby-boom person. When I came to schools, they were there; they were built. There was plenty of staff. They were all in place for my older sister, who was there eight years ahead of me, so there wasn't anything to fight about. If you ask my mother, she probably will tell you that at the time I was in school, she wasn't aware of school board trustees, wasn't aware of their role, never had to access them. She didn't go to the PTA because she was perfectly happy with what was going on. I think that went on for a long time.

In 1990, I entered the school system with my oldest daughter, Susan, in a very affluent neighbourhood. I went to my first PTA and I thought, "This is an experience my mother never had." Parents had just begun to come back three years before, that principal told me, and they were very much a part of their school. They were very much in contact with their trustee.

At the end of that year, I moved out to the community I live in now in North York. The revolution hadn't started there yet. There was no PTA. As I stood on the pavement where the real PTA exists to this day—I call it the

"pavement talk association"—those people didn't know they had a trustee in our area. They didn't know that her name was Kim Scott. They didn't know that it was her they should phone because they saw a child with a behavioural disorder sitting on a bench in the principal's office day after day and they were worried that he just wasn't getting an education because he was in the wrong place. They didn't know that was whom they should phone. It was only my experience downtown for that brief time that told me that that's what we should do.

That very year they began their first parent organization. A couple of years later, school councils came along. We're only now beginning to understand how they work. We're only now beginning to understand that our role in locally controlled, democratic education is the most important role of all of them. I think, and all of my members believe, that we're doing well with it. We're getting there, but it takes a long time. I assure you that we will monitor school trustees. We will make sure that they are making responsible decisions. Like it or not, when we think that they should complain to you, we think that they should and we know that they will.

If you are doing what is truly right, what is truly sound, what is truly best for my children and best for the 300,000 students in the Toronto board, where the TEA exists, then you should be ready to suffer the slings and arrows of complaints that trustees might make.

We have, in each of our communities, ward councils. They surround the trustee and they tell her what is needed, and the trustee does her best to see if that fits within the confines of the system we have right now. That system is just beginning, and it's beginning to work well. To derail it is going to have a disastrous effect on our community, on our schools and, in the long run, on this province, because that system is being modelled throughout Ontario and is going to make our locally controlled school boards most effective—more effective than they have ever been before. The measures against trustees in Bill 74 will destroy all of that groundwork, and I fear for my children's future if that's the case.

**1020**

**The Chair:** Thank you, Ms Carroll. We have time for about one question from each party.

**Mr Gerard Kennedy (Parkdale-High Park):** What is the time available, Madam Chair?

**The Chair:** We have about four minutes available.

**Mr Kennedy:** Madam Chair, I just want to say that I hope we will accord each witness all of their time, because these are sham hearings. These hearings exist at the largesse of this government and I will not—

*Interruption.*

**The Chair:** Ladies and gentlemen, I'm sorry, but I will not tolerate any kind of outburst.

**Mr Kennedy:** We understand the tolerances of this government only too well. We are here participating in sham hearings because no others have been offered and because it's too important a bill to be quiet about.

I want to congratulate you and I won't deduct more from your time, Shelley. I just want to ask you more



specifically, because there are people who don't understand, what is it in Bill 74 that will stop the local trustees—who you have learned are necessary for a well-functioning system, a connection to parents—in future from performing that role?

**Ms Carroll:** Our trustees at the moment are making decisions, balancing the books, but they are able to sit around that table and admit when they are confined by the funding formula. So they are able to interact with their community and able to make them understand that certain decisions are being made for certain confines.

Their understanding of the bill is that they should be afraid even to have an interaction with parents where they can explain the funding model's confines, because they are afraid that they will be seen to be intending to stir up the community to be negative against this government. It's a real Orwellian wording and they fear that they will not ever be able to do anything but say: "This is what is going to happen. I have to hang up now."

**Mr Kennedy:** In case the minister has concerns.

**Ms Carroll:** Yes.

**Mr Rosario Marchese (Trinity-Spadina):** Two quick questions because there is no time for any detailed questions: First of all, we've got two hours here today—and we thank you for coming from Toronto—and one whole day in Ottawa. What do you think about that?

**Ms Carroll:** A much-admired former Toronto trustee, Fiona Nelson, said to me two nights ago: "Symbolically we get the message. You might as well have had one two-hour hearing in St James Bay." There are so many people in Toronto who are so upset about this bill. I'm talking about young people and I'm talking about elderly people whose children aren't in the system, and they can't come to Barrie. They had no way of getting on this very short list, and I am overwhelmed by the task of trying to speak on their behalf.

**Mr Marchese:** What's your message for this government, so we can take it back when we get into the Legislature?

**Ms Carroll:** We're struggling hard enough with the punitive measures that trustees already have to worry about. To add to the bill is simply the end of publicly controlled, locally controlled education, and we haven't missed that message. It is not subtle enough to escape parents in the system.

**Mr John O'Toole (Durham):** Thank you very much, Shelley, for appearing here today. It's important to hear from all Ontario, really, and there is certainly a lot of opportunity for voices to be heard, both in the media and other ways, in Toronto.

I want to draw a little bit of a comparison here to what is actually being achieved. I think the previous speaker made some reference. If you look to history you're bound to learn about the future, and if you look to what has transpired in the reference time that you pointed out—I'll just go for that period—in the period 1990-95 there were approximately three important observations made in education by, I might respectfully say, Mr Marchese's government. They had the start, if you will, of testing, the

new curriculum development was well underway, and the Royal Commission on Learning was an important benchmark in saying, "Things have to improve." I suspect you would have to look at the governance model, on which you've spent some time, which was the Sweeney commission, saying that we had to look at the amount of governance in education in Ontario. You would have to say that reform was well underway in the period you're addressing. An important recommendation, of course, was the engagement of the parent in the process of education. To say there wasn't a need for change is completely missing the absolute.

I would say that the other part to this is, do you believe that extracurricular activities are an important part of the learning environment?

**Ms Carroll:** As I said, that's not something I am going to talk about.

But you brought up the Sweeney commission, and if I may say, they asked for adjustment to the governance system. They asked for adjustments to the role of trustees. They didn't ask to remove them and replace them with volunteers. They suggested a salary cap of \$20,000. They did not ask to turn them into volunteers working part-time on an honorarium.

**Mr Kennedy:** On a point of order, Madam Chair: I would ask that the time for questions, when it arises, be fairly divided by time, because we are on incredibly short time here, thanks to the government. It is important that that fairness be seen to exist, so existing time should be divided. I hope that can be pursued.

**The Chair:** Yes, that will be pursued, as it has been.

Thank you very much, Ms Carroll.

**Mrs Lyn McLeod (Thunder Bay-Atikokan):** On a point, while you call up the next delegation, Madam Chair.

**The Chair:** If you keep calling points of order, then you're going to—

**Mrs McLeod:** It's not a point of order.

**The Chair:** —interfere with the time for the delegates to speak.

**Mrs McLeod:** It's not, Madam Chair. I was suggesting that I just want to put something on the record of the committee while you call up the next delegation, so I'm not going to interfere with the time at all.

**The Chair:** Let me call up the next delegation and then we'll hear your point of order, Mrs McLeod.

#### ELEMENTARY TEACHERS' FEDERATION OF ONTARIO

**The Chair:** Phyllis Benedict, president, and Ann Hoggarth, president, Simcoe county, of the Elementary Teachers' Federation of Ontario. Good morning.

**Mrs McLeod:** Madam Chair, I will do this periodically and it's not a point of order, it's simply a point of wanting to ensure that the public record records any written presentations that are tabled with the committee. In this case, one written presentation that's before us is from Concerned Parents and Teachers of York Mills

Collegiate Institute. I believe it's important for Hansard to note that those who provide written submissions have that in the public record.

**The Chair:** Thank you, Mrs McLeod.

Ms Benedict, Ms Hoggarth and Mr—

**Mr Gene Lewis:** Gene Lewis.

**The Chair:** Please proceed.

**Ms Phyllis Benedict:** My name is Phyllis Benedict and I am president of the Elementary Teachers' Federation of Ontario. We represent 70,000 teachers and educational workers in the elementary public schools across the province. Our members work in 37,000 classrooms in over 2,500 schools. They teach, support and inspire more than 920,000 children ranging in age from four to 14.

I'm pleased to have an opportunity to speak on behalf of my members. It is unfortunate that so few Ontarians have an opportunity to speak on behalf of their organizations or bring concerns of the citizens to this committee. It is of great concern that the government has allocated so little time for the consideration of such a horrendous piece of legislation. The bill has significant ramifications not just for teachers but for students and the future viability of school boards in Ontario. Once again, the Harris government has drafted legislation that will bring about major changes to education and is attempting to do so quickly and without the public fully understanding the implications.

Bill 74 and its draconian changes continue in the tradition of Bill 26, the Savings and Restructuring Act; Bill 103, the Toronto megacity legislation; and Bill 160, the misnamed Education Quality Improvement Act. These bills are but key examples of the Harris government massively restructuring Ontario society and assuming extraordinary, unprecedented powers centrally.

The government has consistently centralized political control since taking office in 1995 and has the gall to tell the public that it is not the government, but elected to change the government, to reduce the government in Ontario, and this is certainly not the case for education in this province.

This bill is not about enhancing accountability in education; it's about power. It's about using the heavy hand of government authority to make professionals feel like indentured servants, to reduce teachers' collective bargaining rights and to further undermine and erode school board authority and local accountability.

The government is overreacting to a labour dispute in one corner of the province. Those teachers had to react to a government policy by withdrawing their voluntary services, and for that this provincial government is punishing every single teacher with the spectre of mandatory extracurricular activities and removing the collective bargaining protection that teachers have from the abuse of such assignment of these activities.

There was no provincial data for this government that they could bring out and demonstrate that there was a problem of teachers failing to provide extracurricular activities. In our recent study that was conducted by ComQuest Research, in a typical week 70% of our membership spends time with extracurricular activities.

The report further goes on that it translates into 3.6 hours among our teachers who participate in extracurricular activities outside of their responsibilities in the classroom.

**1030**

Bill 74 raises serious issues in relation to equity. Teachers, depending on what stage they are in their careers and in establishing their families, have different amounts of time available to spend on activities outside the classroom. The legislation threatens to create undue hardship for our members, many of whom are new teachers coping with the stress of starting their careers, and for teachers with young children. It will particularly affect our younger women teachers.

The definition and scope of co-instructional activities in Bill 74 are so broad and all-encompassing that it leaves the door open to teachers being assigned virtually any school-related activity, any time of the day, any day of the week during the school year. There is no restriction on the number of hours of co-instructional activities that teachers can be forced to work or the conditions under which the work is performed.

While the majority of principals may not abuse this new power under Bill 74, there is no protection for our teachers where this is not the case. The bill clearly stipulates that teachers cannot negotiate clauses in their collective agreements to protect them from the arbitrary and unreasonable assignment of extracurricular activities and the assignment of these activities cannot be dealt with through arbitration.

This is an incredible affront to free and collective bargaining rights and to the principles of fairness and justice in the workplace. If the government can abrogate teachers' collective bargaining rights with a stroke of the legislative pen, no unionized employee should feel safe from this rabidly anti-union government. It is clear from this legislation that the government is not interested in respecting the work that teachers do or in supporting them in meeting the ever-changing challenges of the needs of Ontario's children.

No other profession in Ontario has been so interfered with and so demoralized. We cannot, though we've tried to understand, why this government, while it is well-known that there is a pending teacher shortage, would create such an unwelcoming environment for incoming teachers. Earlier this week I learned that the British Columbia Teachers' Federation is running ads advising those teachers not to accept positions in Ontario because of Bill 74.

Public elementary teachers are being attacked, maligned and pushed around by this government, and Bill 74 is just the icing on the cake. We asked our members two questions: whether they believed that Bill 74 was an unwarranted intrusion into their professional affairs, and whether they believed it was a direct attack on their collective bargaining rights. Our members sent a loud and clear message to this government and that message was that 99% of them voted yes to both questions.



The Elementary Teachers' Federation of Ontario strongly opposes sections in Bill 74 that dramatically expand the power of the education minister to take control over school boards. Section 7 gives the minister the power to assume control of the school board if he or she decides that the school board is not complying with provincial rules regarding class size, teacher instructional time, the implementation of extracurricular activities or the payments for trustees.

School boards have been struggling to meet the needs of their students within the confines of a very rigid funding formula. What little flexibility they had to respond to local needs will be seriously eroded by Bill 74. School boards like the Greater Essex County District School Board, the Kawartha Pine Ridge District School Board and the Toronto District School Board have all passed motions to protest the impact of the government's funding formula on schools and local programs. Bill 74 is punishing school boards as well as teachers for speaking out against the effects of government policy and for attempting to find solutions to staffing that work for their communities. The assault on school boards' authority is an attack on local democracy and it threatens to leave school boards with no meaningful influence or say over the delivery of education in this province.

This government thrives on confrontation but we believe that this time it has seriously miscalculated. Last year the Elementary Teachers' Federation of Ontario gave a commitment to ensure stability in the public elementary schools in Ontario. We did our part, but Bill 74 will not give a guarantee that that stability will be in our schools come September 2000.

Last night I received a phone call from a parent. She's not a parent of a public elementary school pupil, she's with the separate school system. She couldn't speak today but she asked me if I would give one message. She asks you to stop destroying her community, stop destroying her school, stop breaking apart the very basic relationship that is so vital for the education of her children.

In conclusion, before I ask my president locally to speak, ETFO urges the justice and social policy committee to recommend that this legislation be withdrawn. I draw you to the back three pages of our brief, which list the incredible number of activities that the elementary teachers in Ontario have given freely and with love to their students.

**Ms Ann Hoggarth:** Contrary to what this government may tell the public, my members tell me what to say, not the other way around. Very clearly the elementary teachers of Simcoe County told me, in an all-member vote, that they overwhelmingly believe Bill 74 is an unwarranted intrusion on their professional roles as elementary teachers. They also told me emphatically that Bill 74 is a direct attack on the collective bargaining rights of teachers.

The main concern, though, that my members have with the bill has to do with freedom. Teachers throughout the history of civilization have been the defenders of liberty. Dictators know that to keep power they must

silence educators. This bill does just that and it's very scary. Bill 74 gives the government the power to punish the trustees elected in democratic elections by the citizens of Simcoe County, by the parents from our school.

Bill 74 lets the government take over. Any board employee is subject to dismissal by the Minister of Education. Parents, students and local communities risk losing their direct voice in educational matters that determine the unique nature of each school community. Bill 74 continues this government's erosion of democracy. It's the stakeholders in the education system now. Who will it be next?

The clear objective of this bill is to silence any critic of the dismantling of the education system in Ontario. The elementary teachers of Simcoe County ask this committee to recommend to Mr Harris and the Conservatives that he withdraw this bill in full. This bill has nothing to do with accountability. It has everything to do with forced control. Democracy is at risk today. As the English proverb says, "None so deaf as those who will not listen." Please listen.

**Mr Gene Lewis:** To support the comments of my colleagues, it's clear that this is not only an attack on elementary and secondary school board employees and trustees, but it's an attack on all of organized labour. It's in particular an attack on elementary teachers in this province. The minister herself said there was no problem anywhere in the province with elementary teachers providing extracurricular services, yet she couldn't legislate differentially. We find that rather an unusual statement, since when it comes to class size, per pupil funding, preparation time and square feet per pupil for accommodation, there used to be no difficulty in legislating differentially.

We thank you for the opportunity to bring that message to you on behalf of the elementary students of the province.

**The Chair:** Thank you, Mr Lewis. We have about two minutes, members of committee, so I will allow three quick questions.

**Mr Marchese:** Meaning we'll take the two minutes and then we rotate?

**The Chair:** We have two minutes in total.

**Mrs McLeod:** Your time's over, Rosario.

**Mr Marchese:** That's it. You know what this is all about. The hearings are clearly inadequate for our purpose.

Just as a quick question, usually they say in the Legislature that their problem is with the union bosses, not with the teachers. They like teachers, they say; it's you people who are the problem. What is it you do that is so evil?

**Ms. Benedict:** I get up in the morning. What do I do? I have been an elementary teacher from kindergarten to grade 8, with many years in special education. I was a vice-principal until they removed vice-principals from the union. I have two children who went through the system. At the end of July, I'm going to be a grand-

mother for the first time. Public education is so important to me. I want to protect it at all costs. If that means I'm their target, let me be their target, but let my teachers go and do the incredible job in their classrooms that they have done for years, day in and day out. Leave them alone. If they want to pick on me, fine. I'm a big girl, I can look after myself, but leave my teachers alone.

1040

**Mr O'Toole:** For the record, Ms Benedict, I want to compliment you on the compliments you made earlier on when the curriculum was being reviewed. It took a lot of courage on your part to stand up and compliment the improved curriculum and I thank you for that.

The part I want to ask you is, do you believe that extracurricular activities should be used as a bargaining chip in a school environment where children's lives and futures are at risk? How should we deal with it? That is really the plain way to ask that. How can we ensure that children have a complete education, or is this list in your reference unimportant? If it's important, how should it be manipulated?

**Ms Benedict:** Thank you, Mr O'Toole.

**Mr Marchese:** Or dealt with.

**Ms Benedict:** Or dealt with.

**Mr O'Toole:** That's what I'm trying to find here. It's very important.

**Ms Benedict:** If I could answer your question, I've been at these hearings before and usually the question goes on and there's no chance to answer.

In regard to the improved curriculum, I believe that if you went on with the statement, you found out that the problems were with the implementation and resources in the school, but that's another discussion.

In regard to the importance of extracurricular activities, given that there were four pages, and that's not an exhaustive list by any means of what goes on, and also given the history of the Elementary Teachers' Federation of Ontario and the two predecessor organizations, we will continue to use what is allowed to us under labour law as far as dealing with collective bargaining is concerned until you choose to take that away.

When we have withdrawn extracurricular activities in the past, we have done so only when we have been in a legal strike position and it has been a form of that legal strike action. It is something that we would employ to cause minimal disruption to the school system, to the education of our students, and only when boards have pushed the limits of what is reasonable at the bargaining table would we move to a full withdrawal of services. If you look at the lesser of evils, to quote one of my vice-presidents, she said it was very important for her son in his OAC year, and she didn't mind that the extracurriculars were withdrawn because he still got the academic qualifications he needed to go on to university.

**Mr O'Toole:** Dalton McGuinty's position is that he would outlaw strikes.

**The Chair:** Mr O'Toole, no more questions, please. Mr Kennedy.

**Mr Kennedy:** Thank you for your presentation. I understand it's a difficult circumstance, the whole non-sensical nature of elementary even being talked about in this context, but it's nonsensical for everybody so at least there's that consistency.

I want your point of view. Normally these hearings are for accountability for the government for a proposed law. This law proposes to create a problem, a shortage of time on the part of at least secondary panel teachers, and then a law to solve the problem they've created. If a minister is going to be that audacious, and also discourage and attack and take away from the respect for teachers around the province, what is your view of the minister being afraid to show up here this morning with any of her staff to defend this bill?

**Ms Benedict:** I'm sure, given all the various pieces of legislation this government has tried to put through in this session, the minister has her hands full trying to figure out how to implement all of them so they truly are in the best interests of the students and the teachers of Ontario.

**Mr Kennedy:** That's a much kinder answer than she would have given in the reverse.

**Mr Joseph N. Tascona (Barrie-Simcoe-Bradford):** On a point of order, Madam Chair: The minister is represented by staff here today and by her parliamentary assistant. I don't think you should jump to those types of comments in a public hearing like this. You know better.

**Mr Kennedy:** I will not allow that to be used as argumentative because the Minister of Education, any minister proposing a bill, normally appears in that chair and answers questions and doesn't hide behind officials. So instead there's—

**The Chair:** Members of committee, we are here to hear public delegations this morning and I would appreciate it if you would refrain from this criss-cross debate.

Thank you very much for coming this morning.

**Mr Marchese:** On the point of order, Madam Chair, just as you call the next person.

**The Chair:** You're just cutting into other people's time.

**Mr Marchese:** Absolutely, but we in the subcommittee agreed that we didn't want the minister here because in the time they allocated, we didn't have time and we wanted to hear the deputations, as opposed to hearing the minister.

BONNIE AINSWORTH

**The Chair:** The next speaker is Bonnie Ainsworth. Good morning, Ms Ainsworth.

**Ms Bonnie Ainsworth:** Good morning and thank you, Madam Chair. I'm very grateful that I woke early this morning and committed more specifically to paper what I wanted to communicate to you this morning. I really was arrogant enough to think I could just come in and have a conversation. Now that I'm in the venue, I'm very grateful I have a prepared statement.



I would like to thank you for this opportunity to appear before your good selves, the standing committee on justice and social policy, in regard to Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience.

Watching TV last night, and at the same time wondering what I was going to say to you this morning, I really wondered why I even wanted to bother myself doing this. As a municipal politician, I have become acclimatized to hearing only from those in objection. For the most part, I would expect that is what you will hear today. I suppose that's the answer. I suppose that's why I wanted to come because I support Minister Ecker, I support Bill 74 and I am truly concerned.

I am not against teachers. I admire teachers and feel they perform one of the most important functions in our society. These men and women have a great responsibility. We all know what it is and we all appreciate their efforts. Please do not take or misunderstand from anything I might say this morning that I harbour any negative thoughts against teachers, because that is simply not true. However, we all know that something is wrong and that something needs to be done.

I'll go back to the top to begin: Bill 74, An Act to amend the Education Act to increase education quality.... How did we wind up with such huge classes, with kids sitting in groups at little tables in such a noisy environment that, to me, it appears almost impossible to think, let alone concentrate, comprehend and learn? How did we wind up with kids getting to high school, grade 9, and they don't even know how to read?

How can anyone disagree with fair student-focused funding, more resources in classrooms, new and rigorous curricula, regular tests to show students' progress, standard report cards, a code of conduct and a teacher testing program? I don't see a problem with this. It's too bad that the government needed to become so closely involved in the school system, but I also thank God that they are and they did. Students have to come first. I totally support these quality initiatives and would encourage serious consideration of any further changes that focus on improving the quality of education.

Second, and to continue, Bill 74, An Act ... to improve the accountability of school boards to students, parents and taxpayers ... . Is there any reason not to expect accountability from publicly funded school boards? Why is there such concern that the Minister of Education seeks this control? Should there be no concern about compliance, or the lack of, with the boards' legal and educational responsibilities? If not to the minister, then to whom should publicly funded school boards be accountable?

1050

I have read that the minister intends the Education Accountability Act to provide the right to order an investigation and the right to direct the board to comply, if a school board is not following provincial standards or

laws respecting co-instructional activities, instructional time, class sizes, payment of trustees' remuneration and expenses, funding allocations and curriculum. I say, bravo. I don't have any problem with this at all.

On behalf of the students coming first in education, I say thank you, Minister, for your willingness to take this on. Frankly, were I a member of a school board, I would say thank you, Minister, for your interest and support.

Finally, Bill 74, An Act ... to enhance students' school experience: It is my understanding that principals already assign different course loads to individual teachers. Why is it then considered such a big stretch to require principals to provide a plan and schedule co-instructional activities? These activities have always been, in my memory at least, part of school life—sports, arts and cultural activities, parent-teacher interviews, staff meetings and school functions. I believe requiring school boards to develop a plan for these activities is excellent, and having principals, using this guide, develop a school plan and, if required, assigning teachers to these activities, is only logical.

I don't see anything new here. Please correct me if I'm wrong, but these activities in my view have always been part of school experience. Students and teachers interested in sports have always done sports, just as students and teachers interested in drama have always provided this opportunity.

In closing, I submit that I think we said it loud and clear in the just-past provincial election. We will not have our children denied important school-related activities because of labour disputes. We will not have our children used as a political weapon. Labour disputes must not be carried into the classroom and our children must absolutely not be encouraged to participate on any side. We have begun to feel that our children and our children's education have become hostage, and that our children and our children's education is now being used as a bargaining chip in labour disputes between school boards and teachers' unions, federations, whatever you want to call them. This is not acceptable. This has to stop.

I thank this ministry and I thank you for your time this morning.

**The Chair:** Thank you, Ms Ainsworth. We don't have any time for questions, unfortunately.

#### METRO PARENT NETWORK

**The Chair:** The next speaker is Kathleen Wynne, Metro Parent Network.

**Ms Kathleen Wynne:** My colleague Donna Preston from the Metro Parent Network was not able to come this morning. There were two of us who were going to speak. Kathryn Blackett is with People for Education and I'm going to share my time with her.

The Metro Parent Network is a loose coalition of parents from across the city of Toronto. We are all people who are involved in our children's school council and some of us are involved in city-wide groups as well.

I feel badly today that the hearings are so short that there are a number of us from Toronto speaking. I wish there was an opportunity for my sister from Bradford to speak, for example. I have nieces and nephews in the Simcoe board. However, I am a citizen of the province and I hope that what I say carries weight and resonates with people around the province.

I'm the parent of three children. I have a son who is at the University of Waterloo in mechanical engineering, I have a daughter who is going to the University of Victoria next year and I have a daughter who is in grade 10. So I'm at the end of my time as a parent in the public school system, but that system has served my children very well and I hope it will be in place for my grandchildren.

My frustration, when I wake up in the middle of the night before these events, is, what can I possibly say that would make this government listen and understand our situation as parents? I've been involved in the education of my children for 16 years as a parent volunteer and I've watched the level of discourse on education deteriorate exponentially in the last five years. As a citizen, I think this is the most distressing aspect of what's happening around us. There's a shrill, destructive and adversarial tone that's come into the discourse around education that should never be there. The discussion about education should be a creative one. It should focus on little children. Dr Ursula Franklin talks about the discussion about high-quality publicly funded education as being inextricably entwined with the discussion of civil harmony and tolerance.

This discussion should never be a mean, partisan, narrow one. All of us, citizens and politicians, should regard the health of publicly funded education as a trust and ourselves as stewards. Politicians particularly do hold the future of our society in their hands. I believe that the current education and funding reforms are abusing that trust.

The assumptions underlying Bill 74 are mean and narrow but, I think more significantly from a practical point of view, they contradict what parents already know about their children's schools. Parents know that it is teachers who already willingly run track meets, coach teams, rehearse and conduct bands and orchestras, organize graduations, direct plays and join their students in hundreds of hours of unpaid activities joyfully.

Parents know that good teachers—and most of our teachers are good—are working at capacity teaching a new curriculum, evaluating and monitoring over 100 students at the secondary level. We should be celebrating these things because we know they are what's going on. One of my concerns with this bill and what's happening in the province is that we're not going to have young people who will apply to teacher's college. We're not going to have enough teachers over the next 10 years.

We know that parents do not want to run their schools. The Education Improvement Commission knows this, they've written a report about it. They know that we don't want to be involved in assigning extracurricular activities to teachers. And yet, you have introduced legis-

lation that assumes that teachers do not want to take part in extracurricular activities, that assumes that teachers are not working hard enough and that parent councils want to be the instrument of principals in approving plans for delivering extracurricular activities. In that way, it's a perverse and punitive piece of legislation, but it's insulting and degrading because there's been no transgression that would warrant that punishment.

What's really going on when a government introduces legislation to solve a problem that doesn't exist? The bill is about much more than extracurricular activities. We believe that at the core of this legislation is the further debilitation of local democratically elected school boards. Bill 74 sets up a situation where the employer, the school board, cannot negotiate the terms of employment with its employees.

Here's something else parents know: School boards are the most accessible level of local politician for a family looking for service for its child. They are far from perfect, as could be said of any elected body, but when it comes to our children we want and need access to people who have decision-making power. Bill 74 takes more control of schools out of the hands of our trustees and places it in the hands of an aloof provincial cabinet minister.

At the same time, this bill allows just about anyone from a school council or from the community to make a complaint and trigger an investigation of a board because the minister may have concerns that a board may not be complying. In other words, if Bill 74 passes, creative problem-solving at the local level, in the interests of local communities, will now be suspect.

Our deep concern is that schools in Ontario, if this bill passes, will lose one of their most distinctive and positive characteristics. Teachers will no longer have the time to take part willingly and completely in the activities that make school worthwhile at all for many of our children. Excellent life skills won't be learned and, furthermore, as a society, we stand to lose the base of skills that we've built over generations.

If students and teachers have to function in an atmosphere of coercion, without consideration for workload and demands confronting teachers already, goodwill will disappear and activities will be delivered to minimum standards. As a result of this legislation and so-called administrative cuts that have already been made, children will lose access to district track meets, to district competitions, and opportunities to associate and compare themselves across their schools and districts.

Children who take music lessons outside the school will continue to perform, but children who do not have that opportunity will lose the chance. Children who study drama or dance privately will bring those skills to school, but those who do not will not have the opportunity to learn them. Boys' football teams will survive and girls' volleyball teams may survive, but cross-country and badminton and swimming won't.

We call on the Minister Ecker to withdraw this legislation and allow boards to negotiate with their employees



under the current rules. If the minister feels that there is a pressing need for further discussion of the role of school boards as employees or the role of teachers as extra-curricular leaders or the delivery of programs and the number of teachers in the school system, we challenge her to set up a rational, considered public consultation on those issues. Such a process would encourage people who are actually working in schools, and parents and students who are benefiting from that work, to take part.

If Bill 74 passes as it is written, it will only further poison the atmosphere in our children's classrooms in Toronto and everywhere around the province.

1100

**Ms Kathryn Blackett:** My name is Kathryn Blackett. I have three children in three different schools in the Toronto District School Board. I am a member of People for Education, a group of parents from public and Catholic schools who are working together to fully support publicly funded education.

I would first like to protest the nature of these public consultations: the speed, the brevity, the venues, the 500 people who have had no opportunity to speak. For a government that stresses the importance of accountability to deliberately avoid the largest concentration of parents and voters in the province seems unaccountable. The only reason I am speaking here today is because Kathleen Wynne kindly offered to share her time so that more parents could be heard.

Bill 74 will directly and negatively affect my children's education. This government has paid so much attention to the code of conduct and safety in the schools and yet the teacher time regulations will mean that there will be fewer adults in the school buildings. The bill will also mean that teenagers have fewer options in their choice of high school courses and a less rich educational experience. In a time of unprecedented economic boom its purpose seems solely to save money, not improve education.

Bill 74's regulations will have a further affect on my children's education. They will serve to lower the morale of teachers and school staff. Parents involved in their children's schools know how dedicated and hardworking these people are. We entrust our children to them. The government says it cares about the quality of education, but in the last five years it has provoked and harassed the people who work in Ontario's schools and the education of Ontario children has suffered as a result.

Only three and a half years ago I spoke to a committee hearing on Bill 104. I had never done anything like that before, but I was moved to do so over my grave concern about how my local level of democratically elected representation was being diminished and power was being centralized in the hands of the cabinet. Here I am again. This act is a very big stick. It says to boards that the minister may investigate and eventually take over a board of education because he or she has concerns that the board has done something or is planning to do something which might result in the board contravening the bill's regulations.

My board, with which I do not always agree, is my local level of government which can respond to my concerns. Trustees give parents access to board policy and represent the needs of their constituents. The act says, "The minister may dismiss from office any officer or employee of a board who fails to carry out any order, direction or decision of the minister...."

Egerton Ryerson was very certain that the school boards be separate and distinct from government administration so that their decisions would not be politically motivated but driven by the requirements of their students and their schools. The province has not demonstrated to me that it knows what is best for my children's education; it does know what is cheapest.

I do not want my school board operating in an atmosphere of fear of takeover. That should not motivate or dictate its decisions. Decisions should be based on the needs of students and I do not want my school board to be punished for making these decisions.

The legislation threatens the last remnants of school board autonomy and ignores the recommendations of the government's own appointed Education Improvement Commission that more power, not less, be returned to the boards.

Ms Ecker, last week at the EIC conference, faced angry questions, many on Bill 74, from parents, students, teachers and board officials. She repeated constantly throughout her speech "parents have told us" they wanted this legislation. Here's a real parent, with a name and a face, who is telling you and the minister to please rescind this bill and give us legislation that actually does enhance the education of Ontario children, not erode it.

**The Chair:** Thank you, Ms Wynne. Thank you, Ms Blackett. It has taken your full 15 minutes.

**Mr Kennedy:** Madam Chair, I would like to object. The presentation started at 10:52, and it is now, by my count, about 12 minutes later.

**The Chair:** You've taken the full 15 minutes.

**Mr Kennedy:** Then I will maintain that objection, Madam Chair, and I will continue to be vigilant, because it is simply unacceptable that we're shaving time off of deputations.

**The Chair:** You may—

**Mr Kennedy:** Madam Chair, I understand the difficult role that you're in and I'm not saying there's any malicious intent, but I would ask, perhaps with the help of the clerk and so forth, that we are vigilant about affording the time to people who are here and have made all this trouble to make their presentations.

**The Chair:** The Chair is vigilant.

#### ONTARIO FEDERATION OF LABOUR

**The Chair:** The next speaker is Mr Wayne Samuelson, president of the Ontario Federation of Labour.

*Interjections.*

**The Chair:** The more you bicker between yourselves, the less opportunity the delegates have to address you.

Mr Samuelson, good morning.

**Mr Wayne Samuelson:** Good morning. Thank you very much. We have provided you with copies of our brief.

I want to begin by saying that I've been appearing before parliamentary committees for almost 20 years. I have never treasured my time as much as I do today. Since the tragic events in Walkerton, in my mind, many things have changed when it comes to my government. I have questions about the role of government. I have fundamental questions about democracy, accountability and responsibility.

I sit before you today as president of the Ontario Federation of Labour, but I'm also a father, a son, a brother, I'm someone's neighbour. In every single one of those roles, I'm counting on you. I'm counting on you to make sure that my kids have an education system that's public and prepares them for a world that's changing every single day. I'm counting on you to make sure there's a health care system for my family when I need it, that there's protection for my family when I need it, to make sure that the water I drink is safe. All of it is based on democracy. Democracy is a heck of a lot more than an election every couple of years.

I can tell you that I am an elected union leader. I've been elected in leadership positions most of my adult life, sometimes as a municipal politician, as a representative on a board of governors at a community college, the United Way; like many of us, a whole range of responsibilities. I've always felt an incredible responsibility when I made decisions, whether it was bargaining decisions that impacted on people's lives, grievances; the time I spent as a member of a board of health. Many times I've had trouble sleeping, worrying about whether I was making the right decision.

This legislation, I know, must be important to you. Believe me, it is unprecedented and far-reaching. It impacts on me, not only as a union leader but on all my other roles in life. It's radical legislation, attacking a system that the governing party built. They've been in power for 50 of the last 60 years.

It's based on a reactionary and vindictive motive. This need to find someone to blame for everything—school boards, teachers, past governments, other levels of government—frankly, I'm getting sick and tired of it.

I've watched this government roll its agenda along in so many other areas, after warnings from so many people. You just discard all those warnings and you roll right along. It's a pattern, and it's disgusting.

Last week I watched this government blame previous governments, human error, local governments, for the crisis in Walkerton. In many regards, your approach to governing is no different when I look at the crisis you've created in education.

1110

We'll never have an independent judicial inquiry to find out the impact of your policies in education on my kids. We'll probably never have one to see the impact of a range of your policies. But let me say to you, you don't

have all the knowledge. Surely everybody can't always be wrong. And frankly, as a citizen, I'm depending on you. I can't depend on Mike Harris or any of those others; cabinet ministers, you can hardly get near them. I'm depending on you.

**The Chair:** Mr Samuelson, I would appreciate it if you would address your comments through the Chair.

**Mr Samuelson:** I'm depending on you and every other Tory backbencher to stand up to the arrogance, to stand up to this attack on democracy. Please don't wait until the impact on our children is felt by them, I beg of you.

There are people who are appearing before you who work in the system every single day. You should listen to them. Don't make the same mistakes you made in the environment ministry and ignore the comments of the people who understand the system and work in it.

I said at the beginning that I treasured the time to speak to you. Partially, it's because I think this is an important issue—it's an issue of democracy—but also because I know there are so many people who can't get access to this committee. That also has been a pattern for this government. Teachers have made a big difference in my life, a big difference in the lives of my children. I've respected their opinions as my three kids have gone through the education system. I can tell you, I respect their opinions on this piece of legislation.

Last week, I was in Ottawa at a gathering of 5,000 teachers and I talked to them about what this means. I don't know how to make you understand that it isn't the people in the Premier's office, this brain trust of advisers who seem to write this legislation up, who understand what's going on in our education system.

You can go through our brief. I think it will be consistent with the input you're receiving from people right across the province, the people who are able to appear before you. But I just want to say this: This piece of legislation is not only about our kids, it's about democracy. It's about the way you deal with me as a citizen. I'm disappointed. I think you're wrong and I think you have a responsibility to listen to those people who appear before you.

In closing—I want to leave some time for questions—I just want to say that there probably won't be any lives lost because of the crisis that's been created in education, but a lot of kids are going to suffer for a long time because of the stupid decisions you are making today.

I just want to apologize for not introducing Sandra Clifford, who is the director of education at the Ontario Federation of Labour.

**The Chair:** Thank you, Mr Samuelson. Does Ms Clifford wish to add anything? OK. So we have about four minutes for questions.

**Mr O'Toole:** Thank you very much, Mr Samuelson. I know you have appeared in your time as a lobbyist, in a general sense, I suppose, before many committees. To set the qualifications of your comments with respect to finding someone to blame—that's a fair statement; I suppose you're sick and tired of it—but you mentioned



Walkerton several times and it would appear the implication is there. What I'm trying to say is, with your 20-some years of lobbying and trying to influence—you were an adviser to Premier Bob Rae of the NDP government—how much consultation did you have during the social contract, where you opened every single contract in this province?

*Interjections.*

**Mr O'Toole:** The point I'm making is the public consultation that you're advocating here, which we are doing, and you have the right to appear. What did you do during the social contract? That's question one.

Question two is, do you not feel that extracurricular activities should not be used as a manipulative tool to influence salaries and teaching time?

*Interruption.*

**The Chair:** Ladies and gentlemen, every member of this committee who has been democratically elected has the right to ask questions, and I would appreciate it if you would respect that right. Thank you.

**Mr Samuelson:** I should tell you, I agree. Unfortunately they don't have to be sensible questions.

Let me first of all respond to the social contract. The issue isn't so much about what the government does; it's their responsibility to listen to what people have to say, not to just throw it away. I can tell you, I've been here and I've been disgusted with the inability of people to listen to what is being said. I can guarantee you that there was more consultation on whatever I think of the social contract in one day than you will see in the next 10 years with the approach of this government.

Your second question is about using students as bargaining chips. You know something? I've never heard that said by anybody except the government. The arrogance to actually run ads with my money to raise those kinds of issues is unheard of.

Mr O'Toole, we may disagree on the issues, but surely we don't disagree on the fundamentals of democracy. If you can go to bed at night believing that you've given people a chance to have their say, and you've listened to them, fine, but I can guarantee you that if I were in that chair, I wouldn't be able to.

**Mrs McLeod:** I'm not going to ask you to engage in a discussion of the history of labour relations or labour negotiations in the province, Mr Samuelson, but I do want to draw on your knowledge of current labour legislation. I want to ask you whether you are aware of any other legislation in this jurisdiction, or for that matter any other Canadian jurisdictions, which would specifically exclude a particular group of employees from the rights they would hold under the laws of their province, whether it's under the Labour Relations Act or the Employment Standards Act, and whether this, in your opinion, is discriminatory legislation directed at one particular group of employees.

**Mr Samuelson:** I think it's a very good question, and it's actually a question I asked one of the leading labour lawyers last night, to try and tell me of another example anywhere in Canada where similar legislation has

attacked a group of people in such a manner. His response was that he has never in his experience of over 30 years in law seen anything like this. This is by far the most unprecedented attack on a group of working people that he has ever seen. I can guarantee you, in my experience, I have never—and I can't imagine any employer trying to pass legislation that puts their employees completely at the whim of the employer, in this case the government, 24 hours a day, 365 days a year. It's nothing short of the most repressive legislation. "Draconian" would not even be strong enough to describe it.

1120

**Mr Marchese:** I just want to ask you, as union boss, as a lobbyist—I'm sure you have nothing good to say but I'm going to ask it anyway. This government constantly talks about accountability. Every bill has the word "accountability" attached to it. They hold squeegee kids accountable. They hold welfare recipients accountable. They're going to make judges accountable very soon. Teachers are being held accountable. Everything is accountable. My view is that there's an accountability deficit, that it's accountability the other way around in terms of holding everyone accountable to their agenda, but the reverse doesn't seem to work. In other words, they don't hold themselves accountable, and how do you hold yourself accountable except through hearings? How else can the citizens respond to you? They've only given us one day and two hours. What is your view of that?

**Mr Samuelson:** In normal times I'd be shocked, but having watched this government for the last five years, nothing surprises me. I've been involved in many issues—changes to the Employment Standards Act, which the government said were housekeeping—travelled right across the province early in their mandate. I think they decided—they found they get a lot of opposition—they'd just rather kind of hang out around Queen's Park in their offices and not listen to people.

But you actually talk about the fundamental issue here, and that's accountability, because each of you is accountable. The only way you can be truly accountable is if you listen to what people have to say and they feel at the very least that they're being heard. But more important, you take into account people who have far more experience in these issues than you ever will. The choice for you is whether you're accountable to the people who are in this room or to somebody in Mike Harris's office at Queen's Park. It's almost that simple.

**The Chair:** Thank you, Mr Samuelson.

#### ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

**The Chair:** The next speakers are Mr Patrick Slack, Ms Carol Devine, Mr Donald Petrozzi and Mr Peter Lauwers.

**Mr Donald Petrozzi:** Thank you, Madam Chair, and members of the committee. The Ontario Catholic School Trustees' Association is very pleased to have the opportunity to speak to you this morning on Bill 74. As you



know, OCSTA represents all Catholic school boards and Catholic school authorities in Ontario. Our boards educate over 600,000 students.

The mission of the Catholic school system is to create a faith community where religious instruction, religious practice, value formation and faith development are integral to every area of the school's curriculum. Catholic educators believe in the common good of a society that protects the rights and well-being of individuals of every race, colour, sex, creed or station. Respect and care for every person, as created in God's image, is essential for school and for society.

The Ontario Catholic School Trustees' Association is pleased to note the statement on the protection of denominational rights in the proposed legislation. We appreciate this acknowledgement of our constitutional rights. We would also like to take this opportunity to express our gratitude to the government for the many aspects of education reform which have benefited students in Catholic schools. Equity in funding, curriculum renewal, the emphasis on student learning in the classroom, are examples of these positive reforms.

I would like to add our particular appreciation for the additional new dollars to develop a Catholic curriculum.

The proposed Education Accountability Act will have a significant impact on Catholic schools and their students and our Catholic school boards.

Bill 74 proposes to lower the class size in both elementary and secondary schools. OCSTA does not object to the reduction of class size where it is affordable and workable. Research, however, suggests that it is the quality of instruction and the teaching techniques which have the most important impact on student learning.

Some school boards in this province will have adequate space for the additional classes generated by a reduced class size. In other areas, however, where accommodation is already a problem, boards will have difficulty addressing this issue in the short term. We do not see more portables as the answer. We recommend that capital allocations be increased to permit the construction of new facilities and that temporary exemptions on class size requirements be granted as needed. It must also be noted that the cost of portables comes directly from the board's capital fund and therefore reduces the dollars available for permanent facilities. Buying portables is a waste of money that could be better used.

Bill 74 clarifies how the government plans to increase the amount of time each secondary school teacher spends instructing in the classroom. It requires boards to assign teachers to provide instruction for an average of at least 6.67 eligible courses on a regular timetable during the school year. For example, in a semestered system in any two-year span a secondary school teacher will be required to teach three out of four classes daily during three semesters and four out of four classes daily during one semester. The proposed legislation will reduce the number of teachers in each secondary school.

The bill will also reduce, by an average of 25%, the number of teachers available in each semester to carry

out the on-call, supervision, remediation and other related curriculum functions during the school day, because 25% of teachers will be teaching four out of four classes during every semester. These aspects of secondary school operations are an important and necessary deployment of teacher time to support the totality of the students' educational experience.

The number of teachers available for extracurricular activities will also be affected by the proposed legislation. These factors will affect all secondary schools, but they will have a heavier impact on small secondary schools. A reduced availability of the school's teaching staff will negatively impact on the entire school program. The level of student need will remain despite the decline of availability of staff to meet those needs.

OCSTA urges that the impact of increased teacher workload on secondary school students and schools be fully studied before any legislated changes are made.

OCSTA objects strongly to legislation which would mandate teacher participation in extracurricular activities. Students in the Catholic system, like students in the other school systems of Ontario, benefit from the voluntary and generous commitment of our teachers. Thousands of hours are spent in organizing, officiating, supervising and coaching a wide spectrum of student activities which contribute significantly to the growth and learning of our young people. Many of the essential skills required in the workplace and in the world today, such as teamwork, self-discipline and problem-solving, have been learned as much on the playing fields, in the performance halls and club rooms of our schools as in the classrooms themselves.

We believe that the management of these programs is best addressed through a collaborative approach between school boards and teachers. Mandating these voluntary services will not work in the best interests of students. It is unrealistic to attempt to legislate goodwill.

OCSTA strongly recommends the removal of those sections of the proposed legislation which mandate extracurricular activities.

Catholic boards are concerned, however, about work-to-rule as a strike sanction. Work-to-rule unfairly affects a portion of the student body and often continues over an extended period of time. The provisions in Bill 74 require teachers to participate in extracurricular activities while a collective agreement is in force but do not remove work-to-rule as a form of sanction when the union is in a legal strike position.

Although we do not support mandating extracurricular activities as a standard practice in schools, we do recommend the elimination of work-to-rule as a sanction available to teacher unions in a legal strike position.

Bill 74 does not address the situation of boards that have signed agreements with their teachers that extend their first agreement beyond August 31, 2000. These agreements reflect the result of free collective bargaining at the local level. They were reached within the parameters of the legislation and regulations that existed at the time they were negotiated. The established principles



of free collective bargaining must be respected and these contracts honoured.

1130

We wish to draw to your attention an error in subsection 23(3) which deals with transition provisions. This subsection says that regulation 171/2000, which imposed new workload requirements, continues to apply for the next school year. These workload requirements are inconsistent with the collective agreements of those very boards for which a transitional period is provided. OCSTA believes that all school boards with agreements that extend beyond August 31, 2000, and that were in place May 10, 2000, should be grandfathered. We have recommended, on pages 7 and 8, what we consider to be appropriate legal language.

OCSTA does not believe the enforcement measures in the proposed legislation are necessary, reasonable or helpful. Throughout our history, Catholic school boards have acted responsibly and in keeping with the law. The spirit of mutual respect and co-operation which for many years has characterized the relationship between local boards and the provincial government has worked well. Our sincere hope is that it will continue.

The compliance aspect of the legislation erodes the balance of responsible local decision-making. It intrudes inappropriately into areas which historically have been the responsibility of local school boards and for which boards have been accountable to their electors. OCSTA is particularly troubled by the proposal in Bill 74 to give the minister authority to directly alter a board's plans for co-instructional activities and for the assignment of teacher workload. It is not appropriate for the minister to interfere directly in the exercise of governance responsibilities of school boards, and in particular our Catholic school boards. OCSTA recommends the removal of the new compliance legislation and also the withdrawal of the subsections which empower the minister to unilaterally alter a board's plans.

School boards are presently required to finalize estimates for their 2000-01 budget by June 30. The legislation that results from Bill 74 and any regulations arising from it will significantly impact those estimates. It will thus be impossible for boards to meet the present deadline. OCSTA recommends an appropriate delay in the date for submission of school board estimates.

The Ontario Catholic School Trustees' Association appreciates the opportunity to express to you our views on Bill 74. We trust that our recommendations will be considered carefully and be received in the constructive spirit in which they are submitted.

I would like to conclude by summarizing our recommendations.

The Ontario Catholic School Trustees' Association recommends the immediate adjustment of capital allocations to reflect the increased need for student spaces; and that the Minister of Education signal her willingness to grant temporary exemptions on class size requirements under section 170.1 of the Education Act.

OCSTA recommends that prior to any legislated change in secondary school teacher workload, the matter be fully studied to determine the impact on secondary school students and schools.

OCSTA strongly recommends the removal of those sections of the proposed legislation which mandate extracurricular activities; that the teacher union's ability to use work-to-rule as a strike action be eliminated; that subsection 277.2(5) be deleted; that consistent with the complaints process proposed by draft section 230.1, the reference to "any person normally resident" be replaced by "any supporter of the board."

OCSTA recommends that section 23 of Bill 74 be amended as follows:

"23.1 Subject to subsection (2), this section applies where the collective agreement between the board and the designated bargaining agent,

"(a) provided, on May 10, 2000 that it continues to operate after August 31, 2000; and

"(b) is in operation on the day this act receives royal assent.

"(2) If any amendment is made to the collective agreement on or after May 10, 2000, this section does not apply, or ceases to apply, as the case may be.

"(3) Despite section 5 of this act, section 170.2 of the act, excluding any regulations made under it, as that section reads immediately before this act receives royal assent, continue to apply until the collective agreement expires.

"(4) Section 170.2.1 of the act does not apply until the collective agreement expires."

The Ontario Catholic School Trustees' Association recommends the removal of the compliance legislation other than that which is in the current act and also the withdrawal of subsections 170(2.7) and 170.2.1(14).

Finally, OCSTA recommends an appropriate delay in the date for submission of school board budgets.

**The Chair:** Thank you, Mr Petrozzi. Unfortunately, we don't have any time for questions. We appreciate your coming this morning.

#### ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

**The Chair:** The next speaker is Ms Liz Sandals, president of the Ontario Public School Boards' Association.

**Ms Liz Sandals:** Good morning. I would like to introduce to you Gail Anderson, OPSBA's executive director, who's here with me this morning.

Thank you for the opportunity to address you today on behalf of the Ontario Public School Boards' Association. School boards across the province are deeply affected by this legislation. This bill, if passed in the current form, will have a tremendous impact on students, teachers, parents, school boards, trustees, and how we locally govern education in our school system across this province.

I would have liked the opportunity to speak and interact with you at length today about Bill 74. Because of the impact of this proposed legislation, our association was very disappointed to learn that the government had set aside only a day and a half for the standing committee to hear the concerns of the public and, in particular, that our local public school board was not allowed to present to you. We strongly believe that a better effort could and should have been made to hear from Ontarians.

Certainly we agree that a strong and effective publicly funded education system responsive to the needs of our students is the cornerstone of a democratic society. That being said, the government should have nothing to fear by hearing from members of the public—their taxpayers, the people they represent—about an issue so paramount to our society.

OPSBA recommends that the government spend more time consulting and analyzing the impact of this proposed legislation and, in so doing, further extend the public hearings process through this standing committee.

This government, through Bills 104 and 160 and now with Bill 74, has fundamentally reshaped the education system within our province, most dramatically in the area of local governance. We do not believe that this proposed legislation is a fundamental shift towards improving the quality of education but rather about power and control by the province.

Our association has a long-standing position, developed before the introduction of Bill 104, that education reform must be founded on the principles of improving education quality, ensuring equity and access, promoting cost-effectiveness and affordability, and improving accountability to the public. Our association continues to stand by these principles.

1140

Public school boards have always been willing and prepared to make changes in the best interests of the children. For years, OPSBA and its member boards have been submitting recommendations to the province that would allow school boards greater flexibility in providing services in a cost-effective and provincially equitable manner. Our consistent message to the provincial government over the past 10 years has been that one size does not fit all. With the introduction of Bill 74, we are being told, “One size must fit all—or else.”

Bill 74 amends the Education Act by adding a new part VIII to the law entitled “Compliance with Board Obligations” The Ontario Public School Boards’ Association submits that this new part VIII is totally unnecessary. School boards have always acted in accordance with the law. The Education Act already gives the minister the power to appoint “one or more persons to serve as a commission to inquire into and report upon any school matter.” OPSBA argues that this broad power, which has been used by various ministers, is already sufficient to allow the Ministry of Education to intervene in perceived mismanagement by boards.

OPSBA recommends that part VIII of Bill 74, concerning compliance, be deleted.

More offensive than the actual power the minister is afforded through this investigatory power is the extremely low statutory threshold under which a board may be investigated. Any ratepayer can make a complaint. The minister only has to be “concerned” that a particular board may be perceived to have done something that may have violated, or may result in the violation of, the applicable provisions of the act.

OPSBA recommends that investigations of school boards or public representatives not be allowed without clear reasons based on objective criteria.

OPSBA recommends that if part VIII is not completely deleted, it be amended such that section 230.1, which concerns complaints by school councils and ratepayers, be removed.

Public school boards vehemently object to any legislated attempt by the province to wrest control of educational matters from locally elected school board trustees. The threat of prosecution negates a trustee’s role to first represent the needs of the communities in his or her jurisdiction. Most objectionably, the minister’s control can extend to any matter affecting the board’s affairs.

It should be noted that only the corporate school board has decision-making authority, not individual trustees. They should therefore not be subject to individual liability. It is offensive to school boards that individual employees can be fined or dismissed by the minister for perceived non-compliance.

If part VIII is not completely deleted, OPSBA recommends that section 230.12, which calls for fines for non-compliance, personal liability and electoral disqualification for trustees and dismissal of employees, be deleted from the legislation.

With respect to extracurricular activities, by mandating that teachers be forced to supervise extracurricular activities which are now provided voluntarily, the government has created an environment that will further demoralize educators, not improve the quality of education.

Much has been said in recent weeks about the extracurricular activities that teachers perform. Often-times these activities are described as coaching, running clubs or attending meetings. School boards and trustees are aware that teachers and school administrators do much more to contribute to the school experience. For example, in many schools across the province teachers run nutrition programs for students. They raise money or ask for donations to cover costs. They supervise the preparation and distribution of food throughout their schools, without any fanfare, on a daily basis. They do this not because they are told to or because it’s part of their job; they do this because they know that children they teach often come to school hungry and they know children can’t learn on an empty stomach.

Our association values the commitment that teachers make to all aspects of the learning process. We do not believe that forcing the assignment of extracurricular activities will enhance student opportunity.



OPSBA recommends that the government value the commitment teachers make in providing extracurricular activities within their schools.

We further recommend that Bill 74 be amended to allow teachers to provide extracurricular activities voluntarily.

OPSBA recommends that mandatory assignment of extracurricular activities only be required when there is clear evidence that the specific needs of students are not being met.

OPSBA further recommends that section 170.2.2, which calls for extracurricular assignments at any time in any place, be deleted.

**Instructional time:** The Education Act currently allows boards to assign a proportionate amount of instructional time to part-time elementary and secondary classroom teachers. Bill 74 does not contain a provision that would allow boards the authority to assign proportionately reduced workloads to secondary part-time teachers. School boards want to ensure fairness to all employees within their board.

We recommend that a technical amendment be made to the proposed legislation to more clearly define a part-time teacher and allow for proportional assignment of workloads to part-time secondary teachers as well as elementary teachers.

Furthermore, OPSBA recommends an immediate release of regulations that will be associated with this section, to allow school boards to conduct their staffing requirements for September 2000 and complete their budgets, as my colleague from the Catholic board noted.

In conclusion, the Ontario Public School Boards' Association calls upon the provincial government to stop this interference in local democracy. It is not too late to tone down the rhetoric, to remove obviously offensive amendments to the Education Act, to recognize that respect is a two-way street and to work with the education community to strengthen, not diminish, our children's future.

We would really like to be able to get on with implementing the provincial curriculum, with implementing accountability for student performance, not to have to deal with the sort of roadblocks that are being put up in Bill 74.

Thank you, and I would be prepared to entertain question.

**The Chair:** Thank you, Ms Sandals. We have about two minutes for questions.

**Mr Kennedy:** You've very cogently summarized the act's impact on the boards. There is an implication in the bill to take away some of the teachers you now have in your boards; in other words, the increased workload. I just wonder what your view is of that. The Catholic board was here and asked for a study to be done. They have a separate paper that suggests there are safety concerns and so on from on-call that may arise for the wellbeing of children. Are some of those concerns shared by your association?

**Ms Sandals:** Certainly it's going to take a while to sort out what the real impact of this is, because in the case of secondary we have both decreased class sizes and increased workload going on at the same time. So it's going to take a while to work out in the various boards what the impact is in terms of the actual number of employees, whether, with retirements, we will be laying off or not. There will be some issues around supervision in schools. I think that's going to be a practical reality. With more teachers teaching classes, there will be less people available for supervision.

**Mr Marchese:** I think it is too late, actually, to make any changes to this bill. I don't think you can tinker with it; I think you either not do it or we're stuck with the problem.

I believe that mandating extracurricular activities and the additional instructional time will not only demoralize teachers but that the extra load on teachers will affect the quality of teaching and ultimately affect the quality of education the students are going to receive. Because you can't stress the teachers to the point where they have little energy left to teach in an effective way. That's my fear. Do you share that fear?

1150

**Ms Sandals:** I ended with a comment on the new curriculum. I think that anybody who has looked at the research on change processes and effective change understands that you have to have the support of the front-line worker, particularly when the front-line worker is a professional, as are teachers, in order to make the change happen. One of the really distressing things about the current environment is that teachers are so insulted by the implication that they aren't appropriately providing programs for students that it's really getting in the way of us being able to do the right things to get the support for the curriculum reform and actually make good things happen in schools. We are dreadfully concerned about the aspect of demoralization and how you make schools work when you have a demoralized workforce.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Thank you, Ms Sandals, for your presentation this morning. First of all, let me make it clear that I kind of like your recommendation 8. But having said that, I heard a presenter this morning mention that extracurricular activities have never been removed except when they were in the position of striking. Could I have your comments on that? That is certainly not the case with one of the boards that I represent in my constituency.

**Ms Sandals:** There are a number of awkward things about the legislation. First of all, when we look at next fall, from the public school board's point of view, most of our employees will possibly be in a legal strike position, in which case the language in the bill doesn't actually prevent them from withdrawing extracurricular activities anyway because they would be in a legal strike position. I'm not sure that the legislation actually in any way addresses next fall. So it's off target, for starters.

In terms of your comment about our recommendation 8, we understand there are a few boards where there has

been a dreadful problem with prolonged withdrawal of extracurricular activities. We understand the frustration of the parents and the students in those communities, and of the teachers too, quite honestly. What we're trying to find is some sort of compromise. Normally things proceed on a voluntary basis, but we do understand that there are occasional, and fortunately very occasional, very unusual circumstances, where things get off-kilter and there isn't a program. But that's when we need to look at mandatory compliance, not for the tens of thousands of teachers in the province who are voluntarily doing things.

**The Chair:** Many thanks, Ms Sandals, for your presentation.

### ONTARIO EDUCATION ALLIANCE

**The Chair:** The next speaker is Ms Jacqueline Latter, provincial coordinator of the Ontario Education Alliance.

**Ms Jacqueline Latter:** Good morning. I would like to introduce, on my right, Tam Goossen, the former vice-chair of the Toronto Board of Education and a trustee for nine years. It's an unexpected privilege this morning to introduce a friend on the left. I got here this morning and discovered that one of the most important parent groups in the province, People for Education, had been shut out of these hearings. So the next few moments of remarks I address specifically to the government members.

Annie Kidder, who is sitting on my left, is one of the most eloquent and respected supporters of education in this province. The government should be grateful that Annie Kidder and People for Education exist as a resource to go to, because they keep talking about how they want to consult with parents. There are no better people than People for Education to consult with. Annie and the members of People for Education probably talk to more parents in one day about education issues than any of you or your despicable government speak to in a year. Everyone in the education community and beyond values the opinion of Annie Kidder and People for Education members. So again, it's my privilege to give up a portion of our time to Annie Kidder and to again put on record my dismay and absolute—I can't even think of the words. I'm furious that you would not consider People for Education worthy of speaking at this hearing.

#### *Interjection.*

**Ms Latter:** I'm going to speak now and then we'll decide between the two of us how we're going to do this.

I'm a parent of two high school students in the Toronto District School Board and as such I guess I'm a special interest person, because I am especially interested in my children's education and that of every other child in the province.

It's too bad that Mr O'Toole chooses to leave the room at this time, because I was at a forum with him in Oshawa recently where he said some of the most outrageously confused statements about Bill 74. Clearly, he doesn't even understand what the bill does.

I'm going to speak specifically about my experience as a parent in the system with my two children. The Royal Commission on Learning in 1994 described teachers as the heroes of our system. I couldn't agree more. Both my children, Heather and Andrew, have been served so well by the teachers and workers in the education system. I'm a single parent and as such have raised my children with a limited income, but because of our fine education system, until this government came along, my children were able to have the benefits of participating in school teams, baseball, swimming and other activities such as music. These things happened for my children because of the dedication of the people in the system, the teachers and the support workers who are willing to give of their volunteer time willingly, with good grace and without any coercion. My children would never have been able to afford to go to music lessons or participate in swim clubs or anything else, and so because of those teachers my children had what I consider a well-rounded education. My daughter is going to McGill in the fall; my son is going into grade 12. I'm actually quite happy that they're escaping the system before the full brunt of the devastation that this government has foisted on it will be felt. I know that's selfish, but as a parent I have to be a little selfish sometimes.

I want to quote to you, just in case the government members don't remember what Bill 74 is all about. It supposedly is "An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience." I cannot understand how anyone of any sense could think that this bill does any of those things. It does not increase education quality, it will never enhance students' experience, and in terms of the accountability of school boards, I would like to turn it over at this point to Tam Goossen, who, as I said before, is a former chair of the Toronto school board and a trustee for nine years.

**Ms Tam Goossen:** Thank you, members of the Legislature. Besides having served for nine years on the former Toronto Board of Education, my own two daughters are very proud graduates of the Toronto system and they are now doing quite well in university.

I live in downtown Toronto—Bathurst and College, to be exact—and I came all the way here today to tell you, unfortunately: Please, enough is enough. We don't need any more provincial government directives to run our schools. There is no proof that Bill 160 has made the education system any better, besides creating havoc everywhere in the system. Why do we need another bill to rub salt into the deep and unhealed wounds inflicted by the impact of Bill 160?

#### 1200

As far as we in the communities are concerned—in my other hat I'm a vice-president of a non-profit organization called Urban Alliance on Race Relations, which has a very active committee on education issues—I don't know if we ever will recover from Bill 160. With the



amalgamation of the school boards, the changes to the curriculum, all this provincial testing, the changes in the secondary schools and the attack on teachers by the government, most students and parents are confused, fearful and uncertain as to what all these changes have meant to the quality of their education.

When I was on the school board I used to go to all the parents' meetings in the schools in my area to discuss with them their concerns about the schools and their children's progress. There were times when discussions might be difficult, but most of the time these meetings were great forums for both the parents and me to exchange ideas on education. I usually left these meetings with a very good understanding of what the parents' concerns were and what they expected me to do at the board.

At the board level, with trustees representing all parts of the city, there was a real sense of give and take in terms of addressing the different needs of our students and schools. Although we were from very different political backgrounds, we all agreed on one thing: Public education is one of the most important pillars in a democracy and it needs our unconditional support and nurturing.

With the changes brought in by Bill 160, trustees have already had their role and influence diminished, but at least they have been able to do a few things to safeguard the interests of their schools and communities. With the passage of Bill 74, trustees will be left with nothing meaningful to do except to be willing stooges of the Minister of Education.

Is the government serious that by introducing such a punitive piece of legislation it is really improving the accountability of the system? Do we not live in a democracy where citizens can exercise their rights on decision-making through duly elected representatives?

I don't doubt the personal abilities of the present Minister of Education—unfortunately she's not here to hear this today—but by concentrating all the powers in her office, can she really bear the heavy burden of the different expectations and needs of our students and their families from our diverse communities in this province? Can she personally guarantee the success of all our students who entered the schools when her government took over the system? Can we hold her personally liable for the lives of the students who have to drop out and who can never return because the system is so tightly run from Queen's Park that there's no room to give anybody a second chance?

In my humble opinion, unless all of you can personally guarantee that this bill is really about improving the quality of the education system, I urge you to not support it.

**Ms Latter:** I will now introduce Annie Kidder.

**Ms Annie Kidder:** Thank you very much, and thank you, Jackie and Tam, for agreeing to share your time. Everybody has expressed their dismay at the fact that these hearings are so short.

Yesterday we released our tracking report on the state of elementary schools in Ontario. This is a survey of all the elementary schools in Ontario—940 schools participated—and ironically one of the things we noticed most in this report was how proud parents were of their schools and what they were most proud of was the extracurricular activities. They wrote long lists of them. Also ironically, one of their main complaints was that cuts to transportation budgets were causing cuts to extracurricular activities, that they were actually losing extracurricular activities because late buses were being cut in some boards and students weren't able to stay at school. Also, there were cuts to lunchroom supervisors, which also caused cuts to extracurricular activities because there was nobody to take care of children at lunch. The teachers had to do it and thus were not available to do all of the things they normally did at lunchtime.

I want to try and be very brief. My main point has to do with going back to Ryerson again, because I think it's very important that we remember what the initial vision was for Ontario's public education system. One of the things Ryerson went on at great length about—many times he went on at great length about many things, but this was one of them—was the importance of the division between politics and administration. He said it was important that the administration of the school system must be a distinct, non-political department. He criticized the American education system because it was constantly unsettled by legislation based on politics. It's very important that we remember this, because this legislation allows not the Ministry of Education, not the government, but politicians to interfere in the day-to-day life of school boards and into the day-to-day policies of school boards. We're very concerned about what will happen to the stability of our education system when politicians interfere in that life.

For me, the most important thing that came out of this tracking report and that's coming out of these hearings is that we remember the connection between policy and its effect and that what this bill does is it cuts teachers, it eliminates local democracy. We already can see, and we can see by things like this tracking report, that badly thought out policy based on fiscal restraint is having a negative effect on children.

I was talking to a trustee yesterday or the day before and she said: "Unfortunately, children take a long time to grow up, so we can't measure those effects instantly. We can't see what will happen to kids who wait for one to two years for special education services or who don't have extracurricular activities because of cuts to education, or who can't be represented by their school boards to make sure that the local needs of their community are met."

My biggest dismay about this bill has to do with school boards. I'm sure that probably half of the extracurricular stuff is going to get thrown out because it's too silly for words, but that the school board stuff will stay, and what that does is fundamentally change the education system in Ontario. It does complete the work that was

begun in Bill 104 and Bill 160 and it will take away my local representation and my feeling and belief and faith that I have somebody there who's looking out for the needs of my community. It will allow politicians to interfere with the day-to-day life of my children's school. Thank you.

**The Chair:** Thank you, Ms Latter, Ms Goossen, Ms Kidder. There's no time for questions.

**Mr Kennedy:** On a point of order, Madam Chair: On behalf of the official opposition, I would like an explanation in writing of how the list of deputants was chosen today. There was a variance between information we received through this process. I would like to have

that in writing before this very limited hearing continues in Ottawa. I would like that to be provided.

**The Chair:** What is the wish of committee?

**Mr Kennedy:** Is there any objection?

**The Chair:** Do we have any problem with that?

**Mr Beaubien:** I don't have any problem with that. That seems reasonable to me.

**The Chair:** We'll submit that to you in writing before 9 o'clock on Friday.

This meeting is adjourned until 9 o'clock on Friday in Ottawa.

*The committee adjourned at 1207.*





## **STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY**

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of Ontario**

First Session, 37<sup>th</sup> Parliament

**Assemblée législative  
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Première session, 37<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Friday 9 June 2000

**Journal  
des débats  
(Hansard)**

Vendredi 9 juin 2000

**Standing committee on  
justice and social policy**

Education Accountability  
Act, 2000

**Comité permanent de la  
justice et des affaires sociales**

Loi de 2000 sur la responsabilité  
en éducation



Chair: Marilyn Mushinski  
Clerk: Susan Sourial

Présidente : Marilyn Mushinski  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Friday 9 June 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Vendredi 9 juin 2000

*The committee met at 0900 in the Weston Hotel, Ottawa.*

EDUCATION ACCOUNTABILITY ACT, 2000  
LOI DE 2000 SUR LA RESPONSABILITÉ  
EN ÉDUCATION

Consideration of Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience / Projet de loi 74, Loi modifiant la Loi sur l'éducation pour rehausser la qualité de l'éducation, accroître la responsabilité des conseils scolaires devant les élèves, les parents et les contribuables et enrichir l'expérience scolaire des élèves.

**The Chair (Ms Marilyn Mushinski):** I call the meeting to order. Good morning, ladies and gentlemen. We do have a full day, many delegations. Individuals will be given 10 minutes in which to speak and groups will be given 15 minutes.

WARREN DeLIMA  
JILL LaPIERRE

**The Chair:** The first presenters of the morning are Mrs Jill LaPierre and Mr Warren DeLima. Good morning.

**Mr Warren deLima:** Ladies and gentlemen, distinguished guests, thanks for coming to Ottawa. I hope you're having a good time on your arrival.

We're here to talk about Bill 74, of course, and to talk about the Ontario government's side.

"Ecker intends to introduce the proposed Education Accountability Act which would, if approved by the Legislature, amend Ontario's Education Act to ensure that school boards:

"Provide co-instructional activities such as sports, arts and special school activities;

"Actually meet the provincial standards set two years ago for the amount of time secondary teachers spend performing key teaching duties;

"Meet other province-wide standards and fulfill their legal, educational...."

This is a response to respond to the grassroots of Ontario's students, Ontario education and of course, Ontarians all over.

"Many aspects of school life contribute to a good education.... Parents know that activities like sports, arts, and parent-teacher interviews are not an extra.

"When we introduced provincial standards for instructional time in 1998, teachers reminded us that co-instructional activities were an important part of both professional and school life. But lately, the story has changed, and these activities have been used as a bargaining chip.

"We can no longer allow teachers' unions to threaten to withdraw, or actually withdraw, from offering these important experiences to students. Our proposed amendments would recognize all these important co-instructional activities and require school boards to provide them."

"The amendments would also ensure that boards and teachers' unions meet the government requirements on teaching time for secondary school teachers.

"The provincial standard first established in 1998 required that teachers provide an average of four hours and 10 minutes of instruction a day for a total of 1,250 minutes a week. That requirement would now be restated in terms of course loads. School boards must ensure that secondary school teachers are assigned to an average of 6.67 credit or credit-equivalent courses a year.

"If a school board is not following provincial standards or laws respecting co-instructional activities, instructional time, class size, payment of trustee remuneration and expenses, funding allocations or curriculum, the minister could order an investigation. Following a report, the minister could direct the board to comply.

"Ontario will also strengthen its province-wide education standards with lower average class sizes....

"Amendments to the Education Act, if approved by the Legislature, would set maximum average class size of 24 pupils to each teacher for junior kindergarten to grade 3, with an overall maximum average class size for all elementary classes, junior kindergarten to grade 8, of 24.5 pupils to each teacher. The maximum average class size for high school would be lowered to 21 pupils to each teacher. All these new class size standards will be effective September 2000.

"Annual funding of \$101 million to lower elementary class size was announced in the May 2 Ontario budget.

"Ecker announced that the government is now committing an estimated further \$162 million in the 2000-01 school year to lower average class sizes in secondary schools."



In 1998, Ecker announced that they set provincial standards for class size. This halted a trend of increases in average class size and ended the practice of school boards and teachers' unions negotiating increases in class size.

"Now, we're taking the next step and lowering class size for children in the earliest years of their education and the challenging high school years."

**Ms Jill LaPierre:** Hi. My name is Jill LaPierre. I'd just like to preface this by saying I am a second-year university student. That means I am two years out of high school. I had wonderful high school teachers and a great education from them all.

I support Bill 74. I find there has been a lot of fear-mongering by the unions about Bill 74. I think a lot of people need to learn the truth that's contained within the bill. For instance, myth number 1 would be that the government's real agenda is to cut teaching jobs. The Ontario government has invested, through this bill, in smaller class sizes for both elementary and secondary schools. More classes mean more teachers. Some \$101 million was announced in the May 2 budget to reduce class sizes in the primary grades, and a further \$162 million was announced on May 10 to reduce class sizes in high schools.

Myth number 2: The government, through this act, is forcing teachers to teach another class. High school teachers, as mandated in the law in 1997, must still spend an average of four hours and 10 minutes of instructional time per day in the classroom. This is also a board-wide average, which many people don't understand. Individual teachers have varying workloads and will always continue to have that.

Myth number 3: This new law will mean voluntary activities are now mandatory. The vast majority of teachers have traditionally done an amazing job of making co-instructional activities a part of their work and available to their students. But unions have always used as a bargaining chip—and I find very unfairly as a bargaining chip—the withdrawal of co-instructional activities through the work-to-rule campaign. Teachers' unions have nothing to worry about unless they intend to withdraw co-instructional activities for this bargaining.

Also, in the definition of co-instructional activities, what the teachers say is to be considered voluntary includes: parent-teacher interviews, staff meetings, school functions, reference letters for students to accompany scholarships and calling parents to report students' absence from school. Bill 74 would like to also remedy this to ensure that none of these things can be withdrawn through a work-to-rule campaign.

Bill 74 would not result in teachers being called upon to provide co-instructional activities 24 hours a day, seven days a week. It would require that boards and principals, in consultation with school councils, would develop and implement plans for providing co-instructional activities. You and I both know there is little demand for a football practice at 2 am on a Sunday morning.

Myth number 4: The extracurricular issue has only been a problem in Durham region. This is also false. Sporting and other activities I know were cancelled in the fall of 1999 in the Ottawa-Carleton District School Board. My school board, Stormont, Dundas and Glengarry, also had, during my school year, work to rule for a little while. These problems have existed for at least two years, and there have also been many threats of work to rule that end up getting squashed. But we don't want to allow it to continue, because co-instructional activities should not be used as a bargaining tool.

**0910**

Myth number 5: Teachers will be unable to give students individual attention. This too is false. Some of the time teachers spend providing remedial programs to students is already included in the definition of instructional time. So within the four hours and 10 minutes that's given for that, to some extent certain remedial programs will be considered as part of that.

The Ontario government has made a number of investments to ensure that Ontario's students receive the supports they need to succeed, which include: \$64 million for the teacher-adviser program, which allows assigned teacher-advisers to hold regularly scheduled meetings with their students to monitor their progress; an additional \$25 million to be used for remedial programs for students who need extra help in stuff like math and language; \$5 million in additional funding to help boards offer summer programs to help students preparing to enter the grade 9 program; \$70 million for school-based programs to assist children in kindergarten to grade 3 in building their reading skills and other skills which are very important in early learning; and another \$70 million to help in the early identification of learning problems and other exceptionalities.

Myth number 6: Bill 74 will take all decision-making away from parents, teachers and local school boards and move it to Queen's Park. This is fear-mongering at its finest. Bill 74 will take from teachers' unions the power to use co-instructional activities as bargaining chips. It will close some of the creative loopholes which teachers' unions have found to avoid complying with Bill 160.

The government believes in a strong partnership among parents, teachers and the community, to result in student achievement. Our government has taken a number of steps to include parents in the decision-making process in education, for example, ensuring that there is a process in place where boards of education must consult with parents before they decide to close a school. School councils ensure that parents have opportunities to have meaningful input and the ability to influence decisions that will impact their children in local schools.

**The Chair:** Thank you, Ms LaPierre and Mr deLima. You've taken your full 10 minutes.

#### ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

**The Chair:** The next speakers, on behalf of the Ontario English Catholic Teachers' Association, are Mr

Smith, Mr Richard Bercuson and Ms Michelle Hurley-Desjardins. You have 15 minutes, Mr Smith.

**Mr Jim Smith:** I'm Jim Smith, president of the Ontario English Catholic Teachers' Association. The association represents 34,000 elementary and secondary teachers. Included in our presentation today there is a written brief, together with a second paper which was sent out to every member of the Legislature two weeks ago. It's entitled Implications of the Education Accountability Act for the Education Landscape of the Province of Ontario. It's a paper which I would urge all of the members of this committee to read and study very carefully, since it underlines a very real and palpable danger if this bill is implemented; that is to say, the health and safety of the children in the schools of this province.

For those who are unfamiliar with the Institute for Catholic Education, it's a coordinating body which represents the Ontario Council of Catholic Bishops, the CPCO, the Catholic Principals' Council of Ontario, OECTA, the parents, OAPCE, together with the supervisory officer. This report on the health and safety implications of Bill 74 was put together in consultation with all of those groups. I'm surprised today that CPCO is not a group which has standing in this set of hearings, because they could have shed more light on the statistics and the real and viable dangers which they outline in this bill.

At this point in time I'm going to turn it over to my two colleagues, who are classroom teachers from Ottawa-Carleton, and give them an opportunity to make some statements about what their perception of the bill is on the classroom. Richard Bercuson is a secondary school teacher at St Matthew High School and co-op in physical education and is a frequent contributor in print and TV on education issues. Michelle Hurley-Desjardins is a primary teacher from Good Shepherd Catholic school, grade 2. She is the recipient this year of the Prime Minister's award for excellence in teaching. I think both of these individuals will provide you with some perspectives about the implications of Bill 74 above and beyond the very obvious ones in health and safety.

**Mr Richard Bercuson:** Honourable members of the committee, fellow teachers, guests, I've been a teacher for 20 years in the private system as well as in the public and Catholic ones. I've taught English, math, science, physical education, cooperative education and art—but we won't go there on that one. I've done my share of coaching and other extracurriculars. I can state confidently and unequivocally that teachers are the finest people I've ever known.

Teachers are accommodating to a fault, remarkably resilient. We bend with the political winds like a stately tree. We adapt and change. We forge on with the job of educating children in spite of resentment and occasionally open criticism. Study after study clearly indicates that teaching ranks among the highest stress-related professions, neck and neck with police officers and air traffic controllers.

Still, we teach. We find a way; always have, probably always will. Even with this Medusa's head staring us full in the face, we shall not turn to stone. We will quite likely soldier on. And the price to be paid? Well, what existed before Bill 74 will pale in comparison to the aftermath.

I don't know what the motivation is for such a piece of legislation. I'm not sure if there is a hidden agenda. Were I a devout conspiracy theorist, I'd say there must be a method to this madness. But keep in mind that I believe too that Lee Harvey Oswald did not act alone and that Marilyn Monroe was indeed murdered.

This bill has made it personal for every one of us. Teachers are leaving the profession in droves—the US, England, the Orient, Australia, Colombia. Just yesterday, British Columbia teachers were advised not to seek jobs in Ontario.

You see, we've survived transitions and the common curriculum and teacher advisory groups and secondary reform and unwieldy report cards and cutbacks. We are limping through the current high school curriculum which provides us with untested, unproven and unpiloted programs, with neither the time nor the resources to make them work properly.

Teachers are exhausted. Teachers are sick and tired. Teachers are sick and tired of being sick and tired. This year, provincial LTD benefits are over \$40 million. Why do you think that's so? Why are so many jumping through the 85-factor window? There are fewer teaching assistants, specialists and psychologists. Students at risk before are at even greater risk now. Students under stress before are often left to fend for themselves now. Meanwhile, we have been shoved into the roles of educator, social worker, counsellor and nurse.

Are you aware that the compacting of courses has resulted in near panic among many students who can't cope with the increased levels? Not to mention the impending stress of the double-prong grad class in three years. I see the erosion daily.

I've tried to look for a rationale and understand the logic, but nothing makes sense. You plan to increase the number of classes I teach to 6.67, a class time workload increase of 11%. The gesture to decrease average class size from 22 to 21 is nothing more than a gesture since that number is an average. Can you explain why my grade 9 English class has 25 students and why so many of my colleagues have similar class sizes?

What kind of magical math proves that increasing the number of classes I teach will help students? With an increase to 6.67, when do you expect me to advise my students or give them extra help? When will I have time to find more resources and mark more papers and prepare more tests and contact more parents? For every 75-minute class I teach, it can take 50 to 75 minutes to do the preparation and evaluation. This does not include conferencing with students. In just one class, if I give a single 200-word assignment, it means reading 5,000 words, which must be read, re-read, corrected, graded and recorded. How many of you have the time to simply read 5,000 words of a novel in an evening?



The argument that teachers work only a 35-hour week is patently ludicrous, given the marking, preparation and research. To give you an example, I took two entire weekends to research information for my OAC physical education classes, for just one anatomy unit, because there was no textbook, no provincial guidelines and no school board resource person—because there was no money. This government cut it all out.

We do so much more than teach classes. It is difficult to quantify what a teacher does outside class hours. To put it in perspective, it is tantamount to saying that lawyers don't just make court appearances, firefighters don't just put out fires, journalists don't just write articles and politicians don't just sit around the House.

0920

Extracurricular, co-instructional, a rose by any other name: forced activities at the discretion of the principal. You want to make compulsory what we already do and then possibly punish us for wanting a life. Why? I don't understand that logic either. You want us available at the principal's beck and call any day, any time, anywhere. Are you? Is anyone? What do you expect will be the result?

And non-compliance as a strike action? This bill allows a teacher to be reported by any resident in whose opinion the teacher does not comply. The first word which comes to mind is "spying." Will this create a positive climate for teachers and kids? Can you fathom working in such an environment?

The government claims it is standing up for the children. Really? A student already has eight teachers per year. Under this bill, it will be more than that. In semestered schools like mine, it could conceivably be as many as 16 teachers in a year, what with shared courses and the awkwardness of timetabling. Add in the TAG teacher and it could be 17. And this fact is incontrovertible: Increase classes from six to anything and you will have fewer teachers available for a myriad of extras, including supervising the school.

Safer schools? How? It is mathematically impossible. I still don't grasp the logic in all of this. I don't see how I will deliver the same quality instruction and guidance to more students with less time. Parents, who already have a distorted view of the profession, will have every right to complain bitterly about their children's education system as it slithers into oblivion.

Are you aware that the constant barrage of negativism towards teachers has already eroded respect for the profession? I don't know how I will be able to maintain the energy level necessary in such a high-maintenance, high-needs, on-stage profession, while my resources and time are lopped off like a gangrenous limb. I love teaching and I love working with these kids. However, I genuinely fear that within a couple of years I will choose to teach outside of Ontario, or else be out of the profession entirely.

Yes, we teachers are very resilient and very accommodating, but this is the breaking point. Thank you.

**Ms Michelle Hurley-Desjardins:** Good morning. I would like to address co-instructional activities at the elementary level.

A little bit of history: I teach grade 2. I have been teaching for 32 years. I have been a principal, a consultant and a teacher. I really love my job. I love teaching children.

I think our profession attracts caring individuals. I know it's a job that just never gets easier. There's always a challenge to it. Our children today are very different than they were 32 years ago. They change all the time. We just have to watch TV and see how they're influenced.

To give you an example, presently, this year, I have 24 children, one with Asperger's syndrome, one with cochlear implants, four taking Ritalin and nine from single-family homes. Now, I'm not saying that's a bad thing, but all of those nine children have experienced it—and remember, at four and five years old. When I'm teaching, I'm looking at the social, emotional, cognitive and spiritual aspects of the children. A lot of my time is spent dealing with the emotional with these children.

Now I'd like to look at my extracurriculars. Dealing with the class that I just had, it's nothing to have four phone calls every evening to parents; the twice-a-year interviews which are mandatory—I mean, there are many more interviews than that. There's lunchtime duty. I always eat lunch with my children. They have to be supervised. None of them go home. We're in a neighbourhood school. There are rainy days when you might have time just to go to the washroom. They're attached like Velcro.

Program, my extracurricular: In the last two years, we have had 10 new programs. Elementary teachers are supposed to be specialists in every subject. You get those programs but they don't just get implemented right away. You have to learn what's in them.

Report cards for the new program: We were reporting on some things that we hadn't received the programs for. Report cards used to take me 20 hours of input. Now we have computers. This weekend, I'll be having my extracurricular at school: 35 to 40 hours just of inputting, and that's not the correcting and whatnot.

Sports: Volleyball and track are my sports, and I do it and I love it. I teach in a Catholic school. First Communion has just come and gone, but it's not like it used to be, if any of you are from the Catholic faith. They all do it on different days. I was attending three masses for two weekends because I wanted to.

I love what I do and I always have. I do these things because I want to do them for children. I treat my children with respect and I know that they return it. I feel very disheartened by this bill because it seems to lack respect for what I've been doing and what my colleagues have been doing. Why would anyone want to squash the spirit of the willing horse? Thank you.

**The Chair:** Thank you very much, Ms Hurley-Desjardins, Mr Smith and Mr Bercuson. You've taken your full 15 minutes.

# ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

**The Chair:** The next speaker is Mr Earl Manners, president of the Ontario Secondary School Teachers' Federation. Good morning, Mr Manners.

**Mr Earl Manners:** Good morning. I'm joined by Mark Ciavaglia from our staff as well.

Government ads would have you believe that Bill 74 is only about mandated voluntary activities. Nothing could be further from the truth. If Bill 74 is just about mandated voluntary activities, then OSSTF can, I believe, point you in a direction that will allow the government to repeal Bill 74, which has received so much bad attention, so that we can get on with negotiating stable teaching and learning conditions with our employees and the school boards, which we were doing prior to the introduction of Bill 74.

I would point out that OSSTF has always accepted the definition of a "strike" that was in the School Boards and Teachers Collective Negotiations Act. That definition stated:

"strike" includes any action or activity by teachers in combination or in consort or in accordance with a common understanding that is designed to curtail, restrict, limit or interfere with the operation or functioning of a school program or school programs or of a school or a schools, including, without limiting the foregoing,

"(a) withdrawal of services,

"(b) work to rule,

"(c) the giving of notice to terminate contracts of employment ..."

We never had any problem with that definition and we worked with it for many years, as did many governments and school boards. Unfortunately the irony is, your government repealed that definition two years ago under Bill 160. If you're so concerned about mandated volunteerism, why did you repeal that definition of a strike?

We know the government is using mandated volunteer activities as a red herring to deflect attention from the real intent of Bill 74. Bill 74 is about fewer teachers in every secondary school across the province. It's about increased workload for the remaining teachers—an extra class for each and every one of them. It's an attack on the right to bargain and the right to negotiate. It dictates cuts, terms and conditions of employment that don't even meet the minimum employment standards for non-union people who may work at McDonald's or Wal-Mart. In fact, teachers in 1907 had more rights and better working conditions than the teachers will have if Bill 74 is passed.

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It does undermine some very basic democratic principles. It encourages individuals to charge teachers who speak out against government cuts at the Ontario Labour Relations Board. It allows the minister to fire trustees who vote according to their conscience or according to the will of their constituents, if that conscience or will goes against the minister's direction. It rips up current

collective agreements and negotiated staffing plans that were in place for next September.

The sad thing: The OSSTF plan, the OSSTF alternative, is better for students but obviously too good for this government.

Let's compare the OSSTF alternative with Bill 74. The staffing arrangements that we were negotiating with school boards throughout the spring increased the time teachers spent with every student. Under Bill 74, you increase the number of students that each teachers sees. The OSSTF alternative guaranteed remediation opportunities for every student every week with subject specialists. In Bill 74, if there's any remediation at all, it's hit and miss and probably not with subject specialists. Under our plan, there was a full range of voluntary activities. Under Bill 74, there is a limited range of mandated activities. In our plan, the funding maintains the pupil-teacher ratio and also provides a reasonable salary increase for teachers. Under Bill 74, there are fewer teachers to fund a salary increase. Under our plan, there is a real reduced class size. Under your plan, there's one more class for every teacher.

This does have an effect on every school and does have an effect on every student. In our plan, a school of 1,000 students would have 60 teachers. Under Bill 74, they would have, at best, 55. We guarantee 125 minutes per week of guaranteed remediation. Under Bill 74, there's less time and fewer teachers. In our plan, the school is characterized by collegial and co-operative relations. Under Bill 74, it's adversarial and dictatorial. Under our plan, you allow innovating teaching opportunities. Under Bill 74, there is a much narrower definition of what teaching is.

In conclusion, Bill 74 is bad for education, it's bad for the school environment and it's bad for the learning environment. I would ask you to make up your mind. Are you or are you not the employer? You keep interfering and you keep blaming others, especially school boards, for all the problems in education. You want to make all the decisions, but you don't take any of the responsibility. I ask you to make no mistake. We believe in local school boards. We believe in local autonomy. We believe that taking control of funding has hurt public education. If you are going to take control, then take responsibility. Treat teachers like every other employee. Come to the table and negotiate. Don't dictate, don't legislate, but be responsible for the decisions and the directions you want to make. Don't hide behind legislation with fancy names. Don't hide behind red herrings. Say what you really want. Come to the table and negotiate that. Put it on the table. Thank you very much.

**The Chair:** We do have about six minutes for questions, so I will allow two minutes each from each party.

**Mr Gerard Kennedy (Parkdale-High Park):** First of all, I want to thank you for being at our sham hearings. We are very limited in our discussions. We would have liked to have heard from many more of the people you represent, among others, including parents and students.



I wonder if you can help us understand. What you said was that your proposal would have 60 teachers per 1,000 students, and the government's proposal would be 55.

**Mr Manners:** When you ask every teacher to teach an extra class, that means you have fewer teachers in that school to cover the curriculum that's available. In our plan, we ensure that the current pupil-teacher ratio is maintained and that there is more opportunity for individual attention. Under Bill 74, there will be fewer teachers in every school, enrolment being held constant.

**Mr Kennedy:** Has your federation calculated the net effect of Bill 74 in terms of the loss of teaching positions?

**Mr Manners:** We had originally thought there would be about 1,500 to 2,000 public secondary school teachers who would be lost. With the change in the class size, it would go down to somewhere between 500 and 1,000, depending on the regulations that come out later, which we haven't seen.

In our report, you can see that since 1995, the number of teachers per 1,000 students has decreased dramatically. Only in 1998 did it remain constant, because we negotiated teaching and learning conditions that kept teachers in classrooms and schools. What the government is proposing in Bill 74 is to reverse that and make further cuts to the pupil-teacher ratio across this province.

**Mr Kennedy:** We've heard allegations from the government that this is a necessary bill. They don't want to talk about the money that is being cut out for the fewer teaching positions; they're talking about extracurricular activities being withdrawn. The assistant deputy minister of education has said there's no report, no analysis, nothing to prove that there's a problem with extracurricular activities. Are you aware of wide-scale problems with extracurricular activities that would justify our passing a law to force people to do them?

**Mr Manners:** In fact we've been working with the sports community and we participated in a sports symposium looking at post-Bill 160 athletic activities. I heard there that the participation in extracurricular activities has been maintained and has increased in many areas. I know you're going to hear a report later from OFSAA, and I'm sure they could confirm the studies they have done. There is no work-to-rule occurring anywhere in this province and there are athletic activities going on everywhere in this province, including in Durham, although it is reduced there because every teacher is teaching an extra class. In our report you can see the number of volunteer coaches and the number of students who participated, on page 6.

**Mr Rosario Marchese (Trinity-Spadina):** I have three quick questions. The first one is, you are the union boss that the minister always makes reference to. Why are they so afraid of you?

**Mr Manners:** I always try and live up to my last name.

**Mr Marchese:** A very good, sharp and short answer.

**Mr Manners:** But in doing that, we also have been trying to make sure that public secondary education is not cut apart by the dramatic and drastic changes that have

taken place over the last five years. I think it is important for teachers and support staff to speak up and participate in the education process and play a role. Bill 74 takes that away.

**Mr Marchese:** Of course. I have two other quick things. My worry, and what I hear from teachers, is that forcing teachers to do the extracurricular activities may kill the program. I fear that. The second one is that forcing teachers to teach an extra period will bring about so much stress to the individual life of that teacher that it's going to affect, in my view, the quality of the education the student is going to get.

**Mr Manners:** You can't mandate school spirit. You can't legislate putting a smile on every worker in the province, although this government seems to think they can. If you ask people to do an extra class, it's the same as asking every worker—which has been happening throughout the 1990s—to do more with less. We've been doing more with less for over a decade. It's about time, in an era of prosperity, when there's a balanced budget, when there's more money than the government knows what to do with, to start reinvesting in our infrastructure, in our public services and in people, so that they can live a better quality of life, rather than having to spend more and more time and getting less and less.

**Mr Garry J. Guzzo (Ottawa West-Nepean):** Mr Manners, welcome to Ottawa and thank you for being here.

**Mr Manners:** Thank you. I lived in Ottawa for many years and I enjoyed living here.

**Mr Guzzo:** I'm aware of that. You make a couple of very valid points. I don't agree with everything you say, but one of the concerns I do have, and I can tell you it's consistent in our caucus, is that we recognize the lack of respect teachers receive in society today. It's considerably below what it was years ago. As a lawyer, let me tell you that the same can be said for lawyers, and I put the blame squarely on the shoulders of the Law Society of Upper Canada. We've gone from a noble profession in society to a point below used car salesmen, but we're still ahead of pimps. We worry about teachers and where they are heading as a result. I've talked to a number of teachers and they put the blame squarely on your shoulders for that; for illegal strikes and for breaking the law. Do you have any comment in response to the criticism that I've heard from your members with regard to your leadership?

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**Mr Manners:** The biggest attack on teachers in this province has come from this government, from a Minister of Education who said that he had to create a crisis in education and that they would have to do things that people wouldn't like in order to make the kind of drastic changes you had in mind. The respect, sir, doesn't come from your government when it comes to education or teachers.

When it comes the membership, I can tell you that on this issue I have talked to more people, both in the community and among our members, than you ever will, and I would urge you to hold as broad a consultation as we

have on this bill instead of just a day and a half of hearings if you really do want respect.

**Mr Guzzo:** Let me make it clear, sir—

**The Chair:** I'm sorry, Mr Guzzo, we've run out of time.

**Mr Guzzo:** —that our hearings may be limited to a day and a half but our consultation isn't. But again, thank you for coming back to Ottawa. It's nice to see you back here.

**Mr Manners:** It's always great to be here. I worked here with the Youth Services Bureau, I went to school here, and it's an important part of the province.

**The Chair:** Thank you, Mr Manners.

#### COLIN MCSWEENEY

**The Chair:** The next speaker is Mr Colin McSweeney. Mr McSweeney, you have 10 minutes.

**Mr Colin McSweeney:** I promise you I won't take 10 minutes. That's quite an act to follow.

I'd like to thank the committee for travelling to Ottawa today to allow parents and others to voice their concerns on the education system in Ontario today.

I'm going to come right upfront and tell you that I am a supporter of the present government. I think most of the things they've done have boded well for the province of Ontario. But today I'm here as the parent of a child in Mr McGuinty's constituency, at McMaster Catholic. I have two children. One is just finishing her first year of junior kindergarten and the other will be entering the school system in a few years. I must say I've been quite impressed with the body of work my daughter has completed this year. I feel her teacher and the school both have done excellent jobs in her first year of education and that's why I'm here today.

I believe the changes the government made in the curriculum, starting right at junior kindergarten, have been a benefit to my child. I think the more we challenge kids, the more we ask of them, the more they will achieve and reach for. Her cousins are now in grade 1, and I know for a fact that, coming out of kindergarten, they definitely did not know as much as my daughter does and weren't as challenged as she was. To give you an example, my daughter, who just turned five, can write and read her own name, her address, and she knows all the letters of the alphabet. These are things her cousins in grade 1 are having trouble with. So I think the new curriculum, with its emphasis on basics, is coming through.

That brings me to the topic of today's discussion, mostly extracurricular activities. When I decided I was going to come and speak here, over the past couple of weeks I've had discussions with other parents and some teachers and people I come across during my work. I deliver groceries for a living so I'm in a lot of people's homes and I chat with them and get their feedback. They know that I'm politically involved, so they definitely let me hear their opinions, because I solicit them. Every single teacher, parent and student that I spoke to feels that extracurricular activities are a right. It's something

that's been done in Ontario for as long as teaching has been around, and they feel that students deserve this.

I guess where teachers and Mr Manners would disagree is whether that should be mandated or not. I am of the opinion that as long as the teachers' unions—and I know there are many teachers who don't agree with their own union, because I've spoken to them—are going to use these extracurricular activities as bargaining chips in negotiations and withdraw these services from students when they feel the negotiations aren't going well, they have to be made mandatory. I think that's the most contentious part of this bill.

If the unions were willing to put into a contract that that would never be done, that they would never withdraw extracurricular activities, I could see the government maybe withdrawing that part of that bill. But parents and students don't want to have the rug pulled out from under them halfway through the year, three quarters of the way through a year, on these extracurricular activities. I think they're just as important as the classroom time and teaching in the classroom. It makes for a well-rounded, balanced education.

Briefly, on the time that teachers spend in the classroom teaching students, I think the more time teachers spend with students, the better their education is going to be. I believe that in the classroom environment is the best way to do it. Yes, teachers spend a lot of time marking papers and preparing for courses and that, but the really important time, in my opinion, is the time they spend teaching the students, whether it be in front of 24 students or whether it's helping an individual student while the rest of the class is working independently. I think the amount of time a teacher spends in front of a student is very, very important, so that's why I support that part of the bill.

The last point that I'm going to make today is the issue of school boards saying the government's going to step in and take away their autonomy and their power. I've listened locally and attended a couple of meetings here in Ottawa on different topics that the school boards have. One of them is definitely school closings. It's something that's very high on everybody's agenda. I feel that for the past two years the school boards here in Ottawa have pitted parents against each other—teachers, school councils. They've had meeting after meeting. They've put out lists to the press saying, "We're going to close XYZ school." Then the next week, "No, we decided we're not going to close XYZ school; we're going to do this." Then they have hearings and meetings on special education, where they say, "Yes, we have enough money for special education." Then the next week, "No, we don't have enough money for special education." They're confusing the issue and I don't know why.

If a school is half full, then make the decision. Do the job that you were elected to do, the job you ran for—I'm talking about school board trustees at this point—make the decision. I know this doesn't have anything to do with school closures, but boards do sit on their hands, Mr Patten, on a lot of things and then turn around and blame



the provincial government for it. And if they're going to blame the government for it, then maybe the government should take back the responsibility of making some of those decisions.

**The Chair:** I would appreciate it if you would refer your comments through the Chair.

**Mr McSweeney:** Anyway, I guess I've made the points I came to make today and, once again, I'd like to thank the committee for allowing me to do this. Believe it or not, I have an utmost respect for politicians. I'm one of, I guess, the minority in Ontario. I think that anybody who puts their name forward to run for political office and gets elected and puts themselves under the scrutiny that you guys do deserves our respect and admiration. Thank you.

**The Chair:** Thank you, Mr McSweeney. We have about a minute and a half altogether, so time, perhaps, for one quick question from each party.

**Mr Marchese:** You came voluntarily; nobody forced you, I hope.

**Mr McSweeney:** No, absolutely not.

**Mr Marchese:** That's good.

**Mr McSweeney:** I actually took the morning off work.

**Mr Marchese:** That's even better—a committed Conservative. This is really good. Just on the question of extracurricular activities, you know that people do it voluntarily now. Football coaches, as one example, do it because they love it, right?

**Mr McSweeney:** That's right.

**Mr Marchese:** What if you tell me, all of a sudden, "Sorry, Marchese, I know you love to do it and you were doing it voluntarily, but you've got to do it now, whether you like it or not." Marchese says, "Hmm, I don't think I like coaching football any more." How are you going to make me be a good coach of football if you take the spirit out of it? I decide: "OK, I'll do it. They can do what they want; they go on the team. I don't have the spirit, I don't coach them any more because you took the spirit right out of my body." What's the benefit to the students now?  
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**Mr McSweeney:** To answer your question, what's the benefit to the students if the union representatives can tell the teacher, halfway through the season when they're going to the city championship: "Sorry, can't coach you, can't supervise you next week, because we're on a work-to-rule. So your season's shot, ladies and gentlemen."

You're right. The teachers do it out of love, and I think they will continue to do that. You're not giving enough credit to teachers who want to coach these teams.

**The Chair:** Thank you, Mr McSweeney. Mr Marchese and yourself took up the full minute and a half.

**Mr McSweeney:** Thank you very much.

#### ONTARIO FEDERATION OF SCHOOL ATHLETIC ASSOCIATIONS

**The Chair:** The next speakers are Mr Colin Hood, executive director, and Katie Shaput-Jarvis, vice presi-

dent of the Ontario Federation of School Athletic Associations. You have 15 minutes.

**Mr Colin Hood:** Thank you for inviting OFSAA to participate. OFSAA is the Ontario Federation of School Athletic Associations. I'm the executive director of OFSAA. I'm one of the small paid staff. With me today is Katie Shaput-Jarvis, who has the daunting task of becoming president starting later in June. Katie is also principal of Laurentian High School here in Ottawa.

OFSAA is a provincial federation responsible for conducting 33 provincial high school events and overseeing the delivery of high school sport and working with our 19 member associations throughout the province. Our handout package outlines in great detail how and what we do, and there is a detailed handout about our Bill 74 position.

Some 52 years ago, the government of the day was instrumental in setting us up. It set us up as an arm's-length organization to manage school sport. For 52 years we've had ministry representatives on our board, on our executive. We've had, if you look at the letters, some very positive response from the ministry over the years. We seem to have been good people—they like us. It's been less government in school sport, and we've managed.

Our first concern, then, with Bill 74 is that after 52 years of a very positive relationship with this government, when this government has recognized us as the leaders in school sport, we have not had any input into what is the most contentious issue surrounding Bill 74. The minister has continually ignored our letters. The previous minister, Johnson, met with us. This minister has not met with us, and for the last year the ministry liaison person who sits on our board has conveniently not been able to attend any of our executive meetings or our board meetings.

You can appreciate that is a frustration. We're not a political lobby group. We're not affiliated with unions. We have teachers and principals and community people working with us. Our sole response is to provide co-curricular activities for young people in this province. So the first concern is, no input.

The second concern is, this is a radical change. What's being proposed here is not minor. You are changing a system that has been based on volunteers for 52 years. We have 20,000 teachers, 4,000 community coaches, teachers. You're changing a volunteer to a legislated employment responsibility. That is a major change. It's being enacted at the same time as teachers' workloads are being increased. What's going to happen? I'll give you five points that even the ministry staff who were in our briefing agreed with. I've not yet met a director of education, a parent, a teacher, who doesn't believe this is going to happen.

The first thing is that there are going to be fewer students participating than at present. Our brief outlines why. There's going to be less quality instruction; Mr Marchese hinted at that earlier. There's going to be an increased cost to boards. I live in Burlington where a study was done that showed, of the money going into

high school sport, only one third comes from the board. The other two thirds comes from the students' pockets and the teachers who are out fundraising. Where's that coming from? The fourth thing is that there's going to be complete inequity. Some will play, the rich will still continue to play; the poor won't. And finally, you're going to have fewer teachers spending time with students in co-instructional activities.

We all want our students coached by teachers who have the skills and knowledge and who really want to be there. We don't want anything else; nobody wants anything else.

The above results have been acknowledged, as I said, by everybody. Does it make sense to introduce a new delivery model that provides fewer opportunities, creates friction within a school, alienates the very people who make a significant difference in people's lives and then you, the taxpayers, are going to take more money out of your pockets to pay for it? Does that make sense?

The argument being put forward, of course, is that it makes sense because there will be more people because those teachers are going to withdraw their services. You've heard it here today. Work-to-rule is a red herring. In Durham the teachers are not working to rule. Some are still coaching—many are still coaching. Some have reduced their coaching commitment based on family and additional teaching responsibilities. We, as an organization that works with volunteers, recognize that you nurture volunteers. You have to understand that family comes first. We respect that. I believe this government must respect that.

In point of fact, last week at OFSAA track and field, the Durham region won 30 medals, the national capital won 10, the region of Peel won 11 and York region won nine. So even though people say, "Oh, it's terrible in Durham," there are teachers participating. A lot of them won and did very well. Some schools weren't there. The delivery model that's being proposed will make sure that there are even fewer there next year than are currently participating.

Last year we ran every one of our championships, in a difficult time. There were people there at our championships who were on work-to-rule, with the full support of their local athletic associations. The courts have mandated that schools under work-to-rule must be allowed to participate. Work-to-rule is a red herring. Earl Manners gave you a solution earlier and gave you the reason why you have the power to deal with that.

It's clear, though, that the government has recognized that if they increase teachers' workloads, some teachers will reluctantly say, "I have to reduce my commitment." The government's solution of making coaching mandatory is not the answer; it's morally and fiscally irresponsible. If you look at the article from the London Free Press, you can't legislate volunteerism. It's there. That's being said right around the province.

What's the solution? Apparently a month ago there was a potential solution. There was a solution that was based on 1,250 minutes. The government moved the

goalposts. Why did they move the goalposts when in the parent meetings that I'm attending right now, everybody is crying out for remediation that the new curriculum and the new program changes have made? They want their teachers to work more with their students in those areas, but the goalposts were moved, so that no longer can work.

I have the best job in the province. I work with 24,000 committed volunteers who want to work with kids. I love that job. In September they're not going to be volunteers. Our organization is going to be there, we'll do our best—after all, we're there for kids—but it's going to be a pretty daunting possibility.

The solution? I believe Bill 74 must be either substantially amended or withdrawn, and the government and district school boards and teacher federations must begin to negotiate in a climate of conditions of employment which will ensure teachers want to continue to volunteer and enrich the lives of the students. I don't believe that's very difficult, because most of our teachers want to do that.

We at OFSAA are willing, at a moment's notice, to bring back the workshop that we started in late January, hosted by the University of Toronto. We pulled together everybody who has any interest in school sports: We had government people of various ministries; we had the sports community so that we could work with the sports community; we had parents; we had Ontario Parent Council representatives there; we had coaches. We had everybody there, and for three days we debated what were the best solutions. How could we ensure that kids participated? With a day and a half left in the workshop, when we started talking about options, and some of those options were far more unpalatable to our federation people than they were to the government, who got up and left so that we didn't have anybody there? The Ministry of Education representative left, when we were there to talk about options.

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We are willing, at a moment's notice, to bring those people back; in fact, one of the solutions in the workshop was that we should move forward. If the government is not at the table, it's pointless. We are willing to bring people to encourage and support and try to provide those opportunities. It is very frustrating as an organization, because we are again there to pick up the pieces.

The government insists that Bill 74 is medicine to help make our schools better places for our students. My physician tells me that for every medical remedy there's an adverse side effect. It's clear that one of the adverse side effects of Bill 74 is to significantly reduce the co-instructional opportunities of students in Ontario. I hope that we can all do our part here today to make sure that does not happen. Thank you.

**The Chair:** Thank you, Mr Hood. Ms Shaput-Jarvis, did you wish to add anything?

**Ms Katie Shaput-Jarvis:** Yes. If Colin has the first-best job in the province, I think I have the second-best. I am the principal at Laurentian High School. It is a school



of approximately 700 students and 60 caring, competent, compassionate, expert teachers. Last night I had the opportunity to attend the Laurentian High School athletic banquet. We probably have about 20 teams at Laurentian High School. We have a minimal student fee to participate because of the socio-economic background of many of our students, and every sport in the school has more than one teacher volunteer coaching that sport. We sat last night to an audience of probably 250, and that was our first annual athletic banquet.

As vice-president of OFSAA, as a former volunteer teacher-coach, volunteer athletic director, intramural athletic coordinator, volunteer convenor of local, regional and provincial athletic leagues and tournaments, I speak against Bill 74. Activities outside the classroom, specifically school sports, are vital to the school climate and student-teacher rapport. They enrich the curriculum. They provide opportunities for students to learn, to pursue new interests, to practise time management, to make new friends. School sports involve directors, administrators, convenors, minor officials, eligibility committees, boards of reference, people willing to take on the responsibility, the time commitment, well beyond the school day.

Bill 74 will result in monetary and social costs to boards, to schools and to students. It will result in reduced opportunities and fewer volunteers with expertise and commitment to the role. Two months ago the board negotiated agreements within the legislation. It's disconcerting that at that time the rules were changed, and I urge that you withdraw this bill and sit down to discuss other options to ensure sports opportunities for all students in the province.

**The Chair:** Thank you. There are about two minutes for questions.

**Mr Joseph N. Tascona (Barrie-Simcoe-Bradford):** I appreciate your submissions here today. Certainly from a co-instructional aspect, it's much broader than just athletics, as you know. We've heard this morning from one of the submissions about the duties that are required of teachers in terms of parent-teacher interviews and consultations with parents after hours etc.

Certainly your organization's role is very important. But I guess in terms of what we have heard and what we have seen out there, trying to balance athletics and cultural and also dealing with how your child is developing and learning within the school system is very important for parents in terms of co-curricular. Trying to make sure that happens is the challenge we have. We heard from the separate school trustees this week that they were very concerned that the unions have used that, that during strike negotiations the withdrawal of co-instructional has been used as a tactic, and they would like to see that stopped.

How would you respond in terms of dealing with that as the reality of labour relations in the field today?

**Mr Hood:** In terms of labour relations, our advice has been that once a union gets into a strike position, for us to

directly interfere gets involved in the labour relations bill, and I will be held in contempt by both sides.

I wish to assure you that our organization, which is always caught in the middle, has spent considerable time with OSSTF and OECTA representatives whenever there are any potential strikes or work-to-rule situations occurring. We've been able to work with them to make sure kids have come on. As I said, last year at our championships there were a lot of students participating who were in those kinds of situations. Our frustration is that we're a group that can work in that area and we've been ignored in that process. We understand those things.

In Toronto a couple of years ago, when there was a proposed work-to-rule, we worked to make sure that the kids—and the local federation did agree to allow the students to finish their seasons before anything happened.

Here is a group that really understands and is willing to work, but ultimately a strike or work-to-rule, as I understand it, is part of a legitimate action under the Labour Relations Act. For me to start involving myself in that, I am held in contempt.

**Mr Tascona:** I'm not suggesting that.

**Mr Hood:** On the other hand, very clearly you have the right, as I understand it now, to make sure that doesn't happen within the parameters of government. Durham was legislated back. The Durham teachers aren't on strike or work-to-rule.

**Mr Tascona:** You're an important voice for athletics. But there is another aspect in terms of the parents who are dealing with co-curricular in terms of interviews, talking to teachers afterwards, and other things that teachers do, and there's not a voice out there and there has to be.

**Mr Hood:** I agree. Our organization has often wondered whether we should actually take on some of those roles. Quite frankly, we're a small group and we want to make sure that what we do is well done and we haven't really expanded into that area.

**The Acting Chair (Mr Steve Gilchrist):** Thank you both for coming forward today to make your presentation.

**Mr Hood:** This is not a bribe, but I have some OFSAA pins that I will distribute to the clerk to make sure that you all go back proudly wearing your OFSAA pin.

**The Acting Chair:** Thank you very much. We appreciate that.

#### ONTARIO TEACHERS' FEDERATION

**The Acting Chair:** Our next presentation will be from the Ontario Teachers' Federation. We have three representatives: Ruth Baumann, Roger Régimbal and Susan Langley. Good morning. Welcome to the committee.

**Mr Roger Régimbal:** Good morning. The Ontario Teachers' Federation, la Fédération des enseignantes et des enseignants de L'Ontario, OTF/FEO, welcomes the opportunity to address the justice and social policy committee hearings on Bill 74, the Education Accountability Act.

My name is Roger Régimbal and I am OTF's first vice-president. Currently I am a classroom teacher teaching computer science to students from kindergarten to grade 8. Accompanying me today are Susan Langley, general secretary of OTF, and Ruth Baumann, executive assistant.

The purpose of our presentation is more to present the long-term impact of the changes proposed in Bill 74, rather than a detailed dissection of the bill. It is important that you, the members of the Legislature, and mostly the members of the government, pause and reflect on the deep-rooted effect that this bill will have on our children, our teachers, our society. We cannot keep sacrificing generation after generation of students while we take the time to understand and work out our differences.

In early March, the Ontario Teachers' Federation, along with three of its affiliates, AEFO, OECTA and ETFO, sent out their olive branch to this government. In a very positive campaign we expressed our desire to work to better our system and continue to ensure the best for our elementary and secondary students. The answer we received was Bill 74. One has to ask why.

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"The 'best and brightest' minds around the world will always have plenty of options, and as mobility becomes even easier, it is essential that Ontario is seen as an attractive location for these people to bring their talents. Ensuring Ontario's attractiveness is also key to stopping the brain drain of homegrown Ontario talent going to other jurisdictions."

The Ontario Teachers' Federation believes that this statement applies to the teaching profession, but the words are not our own. It is a quotation from a March 1999 report by the Ontario Jobs and Investment Board to Premier Mike Harris entitled *A Road Map to Prosperity*.

We in Ontario need to keep our best and brightest elementary and secondary teachers at home teaching Ontario's students to ensure the best and brightest future for all of us. A recent Statistics Canada report, *Brain Drain and Brain Gain*, in the *Education Quarterly* suggests that "movers seem to be concentrated in knowledge-intensive sectors." Elementary and secondary teachers are disproportionately represented in the numbers leaving Canada and moving to the United States to pursue their careers. The report records that for the years between 1990 and 1997, the ratio of outflow to inflow of elementary and secondary teachers in Canada was 3.9; that is to say, for every teacher who comes to Ontario, we lose 3.9 to the United States.

Ontario is experiencing a serious shortage of qualified teachers, as are other provinces, the United States and Europe. In the fall of 1998, the Deputy Minister of Education convened the Task Force on Teacher Recruitment and Renewal to examine a number of issues related to the recruitment, renewal and retention of Ontario's teaching force.

At the end of April 1999, the task force received a report from the data working group on school board requirements for new teachers for the fall of 1999. At that

time, the boards had already hired 5,640 new full-time teachers and were looking for an additional 3,700 for September 1999, and that's not counting the 8,000 occasional teachers needed.

It has been known for years that the first decade of this century would see massive teacher retirements, as teachers hired in the late 1960s and early 1970s to teach the baby boom came to retirement age. What must now be added to this known demographic fact is the effect that Bill 74 will have on the retention of current teachers and the recruitment of new teachers. Today we would like to address working conditions in Ontario's schools. We would specifically like to address what impact the provisions of Bill 74 would have on our ability to hold on to and attract the best and the brightest to teach in Ontario schools.

Margaret Wente, in a column that appeared in the *Globe and Mail* on May 9, 2000, draws a direct connection between the current Ontario climate and the growing attractiveness of other jurisdictions for both young and experienced Ontario teachers.

Data from the Ontario Teachers' Pension Plan Board shows that the number of new pension cases opened in the last two weeks of May 2000 is 50% higher than for the same period in May 1999. Bill 74 was introduced on May 10, 2000.

Tens of thousands of teachers have given willingly of their time for years to coach student teams, organize plays and concerts, chaperone and lead school trips, and sponsor clubs and school councils. In 1998-99, almost 15,000 public and Catholic secondary school teachers were involved in coaching over 200,000 student participants, according to the Ontario Federation of School Athletic Associations. Teachers are personally hurt and deeply offended by Bill 74, because it has transformed the gift of time freely given into an obligation to be rendered.

Principals are required to ensure that extracurricular activities are staffed by assigning teachers to these duties. These assignments can be made on school days, on days during the school year that are not school days and during any part of any day during the school year. Bill 74 further provides that these co-instructional duties and assignments are explicitly excluded from collective bargaining. Teachers are already specifically excluded from those provisions of the *Employment Standards Act* which provide basic protection for hours of work, minimum wages, overtime, public holidays and vacations with pay. Bill 74 represents one more step in a series of successive squeezes on the scope of collective bargaining. The *Education Improvement Act*, 1997, regulated average class size and instructional time. The new Ontario funding model has restricted the ability of school boards to build effective local solutions to local problems.

Bill 74 further restricts the interpretation of instructional time by requiring classroom teachers to teach the equivalent of 6.67 credits. This provision forces an increase in the number of students and courses for which



each teacher is responsible. The previous requirement of 1,250 minutes of instructional time, which would have increased teaching time for each course and the teacher time available for each student, is no longer possible.

Bill 74 represents the desire of the Harris government to micromanage the school system. At the same time, Bill 74 undermines the chief resource required for the effective operation of the schools and the good will and co-operation of those responsible for the day-to-day learning of our children. We are already experiencing shortages in certain geographic areas and in subject specialties such as math, science, technology and French. Graduates in many areas can make more money in business and industry than in teaching, with working conditions that are far more humane and human than the proposed legislation will provide.

On May 9, 2000, Margaret Wente of the *Globe and Mail* wrote of teaching, "Why take a job at \$30,000 a year in a field where morale is bad, when IBM will hire you at \$60,000 and give you a car, a cellphone, plenty of appreciation and a fast track to promotion?"

At a time when Ontario needs to be making teaching a more attractive professional choice, the government introduces legislation that will do the opposite. Whether or not these consequences are intended, the people of Ontario, and especially the children of Ontario, are going to have to live with the consequences.

The educational community—trustees, superintendents, principals and teachers from the public and Catholic, elementary and secondary, French and English systems—has signed a joint letter to Minister Ecker asking her to reconsider her position; I can leave you a copy if you wish. They have asked for a meeting with her. Again, we were denied this opportunity. Can all the education community be so wrong and so misguided while this government is the only one to possess the whole truth and the only vision?

To conclude, we recommend the complete withdrawal of Bill 74.

**The Chair:** We have about two, maybe three, minutes for questions.

1020

**Mr Dalton McGuinty (Ottawa South):** Thank you very much for your presentation. I believe the only way we can possibly deliver quality education in all Ontario communities and inside each school is by means of a partnership. The partners are government, trustees, teachers and parents, and that partnership has to be built on a foundation of trust and respect. I am of the firm view that Bill 74 is going to drive a stake through the heart of that foundation of trust and respect.

I want the government members to pay particular attention to your presentation and to the one made just prior to yours by an arm's-length body which advocates on behalf of 20,000 volunteers who are telling us this is going to cause irreparable damage to volunteerism among our teachers. I also want to applaud you, our presenters, for acting as signatories to a letter that was recently sent to the Minister of Education. This is a very

important letter, dated June 7, and I believe it is unprecedented in the history of education in Ontario. It is signed by 14 groups representing everybody and anybody who has anything to do with the delivery of publicly funded education in Ontario: Catholic, public and French-language representatives for teachers, principals, trustees, superintendents and directors. Everybody has signed a letter saying: "Listen, put the brakes on this bill. Let's take the time. There's something not right here, something that is about to cause serious damage to the state of publicly funded education in Ontario."

I don't have so much a question as a comment, and through you to congratulate those people. My dad was a trustee in his board for 16 years, three of my sisters are teachers and my wife happens to be a teacher, and maybe that makes me partisan in some ways. One of the things my father used to impress upon us was that teaching, first and foremost, wasn't a job, wasn't a profession; it was a calling. We were impressed with the very heavy sense of responsibility about giving the very best to our kids, because it was in our own enlightened self-interest to do so.

My fear is that Bill 74 is a step in the opposite direction from all those values that have informed and inspired people committed to publicly funded education for so long in Ontario.

**The Chair:** If you would like to respond, 30 seconds.

**Mr Régimbal:** In quick response, my deep belief—and I've been in teacher politics for quite a few years—is that I believe in teachers. I believe that teachers are professionals, and in spite of any legislation of any government, I believe that teachers are the reason this system still works today and will continue to work. But there is a breaking point where there is just so much time and so much commitment that an individual can give to their students. When I'm in front of my classroom, like I was this week, and I see my students in front of me, I want what's best for them. But I need the time to prepare and I also need the time to be able to say, "I want to get into this or that activity." So please reconsider. Thank you.

#### MAURICE LAMIRANDE

**The Chair:** The next speaker is Mr Maurice Lamirande. You have 10 minutes, Mr Lamirande.

**M. Maurice Lamirande:** Good morning. Bonjour. Ça me fait plaisir, en tant que parent, et conseiller scolaire du Conseil catholique de langue française d'Ottawa-Carleton, de vous faire part de ma réflexion sur le projet de loi 74. J'aurais pu écrire peut-être 10 pages, mais le temps me manquait parce que j'ai eu l'information tôt hier. Alors, j'ai préparé quelque chose pour vous présenter un peu ce qui reflète dans l'éducation à travers la province, en notre conseil comme ailleurs, ce que je pense, qu'on a certainement des choses à modifier.

Il y a certainement des choses avec le projet de loi 74 qui touchent plusieurs aspects. Entre autres, on parle des étudiants, on parle des enseignants et des enseignantes et

on parle aussi des parents, des conseils d'écoles, des directions d'écoles, et en fait je pense qu'on touche à tout ce qui peut se rapporter à l'éducation.

Je vais faire ma réflexion sur le projet de loi 74, et si vous avez des questions sur autre chose, ça me fera plaisir d'y répondre.

La démonstration le 3 juin sur la colline parlementaire par les enseignantes et les enseignants n'est pas, à mon avis, quelque chose dont nous devons nous enorgueillir. Ces enseignantes et enseignants ne sont pas d'accord avec tous les aspects de la Loi 74. Il semblerait que ces personnes se sentent lésées dans leur désir de vouloir participer librement aux activités parascolaires. De plus, ils considèrent que le contrôle de l'éducation devrait se faire au niveau local.

Il faut toutefois se rendre compte que les enseignantes et les enseignants ont forcé le gouvernement à agir à cause de leur refus de continuer d'offrir les activités parascolaires. Ce refus fut employé comme prétexte par le syndicat des enseignants afin d'inclure ces activités dans leur convention collective. Si nous examinons de près ce qui se passe dans d'autres disciplines de la société, nous réalisons que dans d'autres domaines privés et publics ces employés ont dû faire face à des augmentations de salaire très minimes et un plan de pension moins généreux que celui des enseignantes et des enseignants.

Soyons logiques avec nous-mêmes : les enseignantes et les enseignants ne sont pas demandés de faire des activités qui ne relèvent pas de leur fonction normale en tant qu'enseignants. L'union des enseignants ont saisi d'une opportunité qui s'est présentée à eux pour s'en servir afin d'accaparer plus de pouvoir au syndicat. Si le syndicat veut faire avaler une pilule amère au gouvernement, il s'ensuit que le gouvernement, qui gère les deniers publics, doit les protéger contre, parfois, des demandes abusives du syndicat des enseignants. Je suis convaincu que si le projet de loi 74 présente aux enseignants des inconvénients déraisonnables, le gouvernement devrait être prêt à négocier de bonne foi avec le syndicat des enseignants. Il faut réaliser que ceux qui sont les plus pénalisés par l'intransigeance du syndicat des enseignants, ce sont les étudiants qui fréquentent l'école pour apprendre et s'instruire.

Les enseignantes et enseignants sont considérés comme un groupe élite de notre société. J'ose croire que chacun d'entre eux jugera sa fonction d'une façon honorable et ne se comportera pas comme quelqu'un qui veut défier l'autorité gouvernementale pour des motifs partisans.

Ceci clôt mon allocution, ce que j'ai eu le temps d'écrire. J'aurais aimé écrire sur tout le projet de loi dans son ensemble, faire la réflexion au complet.

J'ai remarqué qu'on a parlé des conseils d'écoles, avec les directions d'écoles qui consultent les conseils d'écoles, ce qui est important, à mon avis, parce qu'on sait bien que le conseil d'école est formé de parents, en partie, de la communauté, et ils peuvent répondre aux besoins de la communauté.

J'espère que ceci a su quand même vous éclairer quelque peu. Si vous avez des questions, je suis prêt à y répondre. Merci. Thank you very much.

**The Chair:** Thank you, Mr Lamirande. We have about four minutes. Mr Marchese.

1030

**M. Rosario Marchese (Trinity-Spadina) :** Merci, M. Lamirande. Vous savez que ces activités sont faites volontairement en ce moment. En ce moment, 99 % des conseils scolaires le font volontairement, et ce gouvernement dit que dorénavant ces activités ne seront pas faits de façon volontaire mais que les enseignants seront obligés de les faire. Pour moi c'est un problème. Je pense que pour tout le monde c'est un problème. Cela veut dire que pour beaucoup de professeurs ça va détruire la participation des étudiants dans ces activités, et ça va détruire le désir des enseignants de les faire. Que pensez-vous de cela ?

**M. Lamirande :** Je comprends votre question et je suis entièrement d'accord avec vous quand vous dites que beaucoup d'enseignantes et d'enseignants font déjà les activités parascolaires. Il y en a qui en font, c'est bien heureux, et félicitations, et si on veut s'assurer quand on parle d'éducation, je pense qu'on parle de l'ensemble de l'éducation, qui comprend aussi les activités scolaires. Les jeunes, quand ils sont à l'école, ne sont pas là jusqu'à l'âge de 40 ans. Il y a un laps de temps.

C'est bien que les enseignantes et les enseignants y participent, mais il y a encore des enseignantes et des enseignants qui ne participent pas. Étant donné que ceci sera dans une loi, je pense que ça deviendra une routine de travail de la part des enseignants. Cela devrait faire partie de la routine normale du travail et puis les gens qui le font déjà ne seront pas pénalisés. Félicitations aux gens qui le font déjà. J'en connais qui le font. Merci.

**The Chair:** You can take another 30 seconds, Mr Marchese.

**M. Marchese :** Ça ne vaut pas la peine. Merci.

**M. Marcel Beaubien (Lambton-Kent-Middlesex) :** J'aimerais prendre l'occasion pour vous remercier pour la présentation ce matin. Je n'ai pas le temps de vous poser une question, mais je pense que je vais mentionner ces activités à la Chambre.

**M. Lamirande :** Ça me ferait plaisir.

**The Chair:** Thank you very much, Mr Lamirande.

**Mr Lamirande :** I thank you.

#### ASSOCIATION DES ENSEIGNANTES ET DES ENSEIGNANTS FRANCO-ONTARIENS

**The Chair:** The next speakers are Guy Matte, Lise Routhier Boudreau and Stéphanie Charron from l'Association des enseignantes et des enseignants franco-ontariens.

**M<sup>me</sup> Lise Routhier Boudreau :** Bonjour. Merci pour cette occasion de vous adresser la parole ce matin. Je suis la présidente de l'Association des enseignantes et des enseignants franco-ontariens.



Notre organisation représente 8000 enseignantes et enseignants qui oeuvrent dans nos écoles élémentaires et secondaires, tant au niveau public, aux conseils publics, que catholiques. Je suis accompagnée de M. Guy Matte, qui est directeur général, et de M<sup>me</sup> Stéphanie Charron, une jeune enseignante qui termine cette année sa troisième année d'enseignement et qui a monté au cours de l'année une pièce de théâtre, dont elle saura vous parler tantôt, qui a eu toute une couverture médiatique dû au succès que ses élèves ont connu.

Dans la deuxième partie de la présentation, Stéphanie pourra vous parler un petit peu de comment s'organisent ces activités parascolaires présentement dans son école et de quel effet l'annonce du projet de loi 74 a eu sur l'ensemble des enseignantes et des enseignants.

Je vais être très brève. On a préparé un mémoire dans lequel on adresse de façon plus précise les articles qui sont problématiques pour nous. Je vais tout simplement prendre les grandes lignes de ce qu'il y a dans le mémoire mais je vous invite, évidemment, à en prendre connaissance. C'est important pour notre système d'éducation publique.

Alors, vous savez que depuis un an, nos écoles secondaires, les enseignantes et les enseignants, vivent présentement le 1250 minutes d'enseignement. Alors, nous sommes certainement en position de pouvoir vous dire concrètement qu'il y a des difficultés sérieuses reliées à cette nouvelle définition. Ce que ça représente, c'est de moins en moins d'enseignants pour de plus en plus d'élèves. Les classes sont nombreuses. Nous avons des enseignantes et des enseignants qui oeuvrent dans des classes de 30 et de 35 encore, présentement. Le temps pour la préparation des cours pour un nouveau curriculum qui est très rigoureux n'est pas là. La disponibilité pour rencontrer les élèves qui ont des difficultés particulières avant que les problèmes s'aggravent et que ces enfants accusent des retards, ce n'est plus possible pour ces enseignantes et ces enseignants. Il n'y a plus de temps disponible. Les enfants doivent recevoir leurs travaux en retard, parce que la correction n'a pas pu être faite à temps. Alors, c'est la réalité, mesdames et messieurs. C'est ce qui se produit dans nos écoles présentement. Ça fait un an que nous le vivons.

Pour ce qui est des activités parascolaires, ça fait des années que dans nos écoles françaises les activités parascolaires sont organisées et encadrées par les enseignantes et les enseignants. D'ailleurs, on vient de faire un sondage qui démontre qu'à l'élémentaire nos enseignantes et nos enseignants y consacrent quatre heures, et neuf heures dans nos écoles secondaires.

Ce projet de loi a eu pour effet de bafouer la dignité et le professionnalisme de nos enseignantes et de nos enseignants. C'est un projet de loi qui s'attaque à de faux problèmes. Ce gouvernement a choisi de pénaliser, de punir, des innocents, des gens qui sont dévoués, plutôt que de tenter de trouver des solutions aux endroits où il y avait des problèmes qui étaient soulevés. Alors, évidemment, les enseignantes et les enseignants se sentent placés dans un mode de servitude et, malheureusement, ce

projet de loi aura un effet contraire de ce qui est souhaité par le gouvernement. Ce seront nos élèves qui seront les premiers perdants.

Malgré la politique, le bénévolat, ça ne se légifère pas ; un sourire ne se légifère pas. Une vente de garage en fin de semaine et un berçathon pendant 24 heures ne se légifère pas. C'est ce que ça prend pour recueillir les fonds nécessaires pour que ces activités parascolaires aient lieu, puisque le gouvernement ne suggère aucune mesure financière pour s'assurer de la survie de ces activités.

L'autre problématique que ça occasionne, c'est toute la question de recrutement. Je pense qu'il y a eu d'autres présentations qui ont été faites à ce niveau-là ce matin. Moi, je peux vous dire que chez nous, nous perdons de plus en plus d'enseignantes et d'enseignants possédant trois ans dans la profession. Ils sont recrutés par des entreprises privées. C'est un personnel qui est hautement qualifié. On les recrute avec des salaires qui sont beaucoup plus alléchants. Alors, c'est une énorme inquiétude pour la francophonie.

Vous avez, comme francophones, des modèles à taille unique qui sont conçus pour la majorité. Nous qui vivons dans un contexte minoritaire, ça ne peut pas toujours répondre à nos besoins particuliers. Tout ce qui touche dans le projet de loi à l'autonomie qui est enlevée à nos conseils scolaires, à nos droits, légiférant ce qui est fait au niveau de la négociation, nous évite au niveau local de trouver des solutions qui peuvent répondre à nos besoins. C'est une grande problématique qui est présentée dans le projet de loi.

1040

En terminant, parce que je veux que Stéphanie ait du temps à vous jaser, il est très difficile pour nous d'accepter, après que ce gouvernement ait apporté des compressions budgétaires importantes depuis son arrivée, après avoir tous ces changements à un rythme accéléré, ce que nous vivons. Ce sont des classes nombreuses, un manque de manuels, un manque de personnel spécialisé. Nous avons une profession qui est essoufflée, qui est démoralisée. On a besoin de stabilité, on a besoin de support, on a besoin d'appui, et on comprend très mal que le gouvernement dépense ses énergies et ses sous à s'attaquer à de faux problèmes.

Alors, on demande que ce projet de loi soit révisé au complet.

Je passe maintenant la parole à Stéphanie.

**M<sup>me</sup> Stéphanie Charron :** Bonjour. Je veux vous parler un petit peu de notre école, de ce qui s'est passé dans notre école, parce que c'est quelque chose de pas mal intéressant et qui a pris des ampleurs un peu plus grosses que je croyais, puis cela a eu un bon engouement autour de la communauté puis autour de notre école. Alors, c'est à l'école Jeanne Sauvé d'Orléans. C'est une école élémentaire d'environ 600 élèves avec des enseignants et des enseignantes de tout âge, jeunes et moins jeunes, qui ont fait déjà beaucoup, beaucoup d'activités, plusieurs activités parascolaires tant au niveau culturel, artistique ou sportif. Il y en a déjà pas mal.

Dernièrement, ce dont je veux parler, c'est qu'on a monté quelque chose de pas mal bien. C'était Notre-Dame de Paris et son époque. Alors, on a recréé un peu la comédie musicale de Notre-Dame de Paris de Luc Plamondon. On a travaillé pas mal fort là-dessus. Cela nous a pris beaucoup d'énergie, mais le succès y était et on en était pas mal contents. C'était un spectacle d'une heure trente, environ, avec cinq chanteuses, des danseurs, une troupe de 30 danseuses, une chorale de 50 élèves des troisième et quatrième années, avec des décors, des costumes, un immense arrangement technique—beaucoup, beaucoup d'implications au niveau des enseignants et des enseignantes. On pouvait y mettre jusqu'à trois heures par semaine de travail. C'est depuis le mois de novembre ou décembre qu'on a travaillé là-dessus. Puis les talents de tout le monde—comme je disais, ceux qui pensaient qu'ils n'avaient pas de talents ont découvert qu'ils en avaient. Les enseignants et enseignantes se sont vraiment embarqués pleinement dans ce projet et ont voulu s'y impliquer.

Puis tout ça, évidemment, c'est fait sur une base volontaire. Je n'ai tordu le bras à personne pour embarquer dans ce projet-là, du tout. Mais quand ils ont vu l'engouement et le plaisir qu'on avait à le faire, tout le monde y a embarqué. Ça n'a pas pris deux secondes.

Ça, c'est au niveau de notre école, mais il y a aussi eu beaucoup d'implications. Quand ils ont vu le plaisir qu'on avait à le faire, il y a eu des parents qui s'y sont embarqués. Dans la communauté en général, on a eu des journaux qui sont venus voir ce qui s'est passé. On a fait des petits reportages. On a eu la radio. On a eu des commentaires. On a eu plein de choses comme ça. Cela a fait boule de neige. Ça a pris de l'ampleur et, succès qu'il était, cela a pris beaucoup plus d'ampleur que je ne croyais justement. Puis, on veut recommencer. Ce que je tiens à vous dire, c'est que ça s'est fait tout dans le plaisir. Les enfants vont se souvenir pour le restant de leurs jours de ce qui s'est passé.

Les points importants : on a donné quelque chose de nous-mêmes. On l'a fait avec un grand sourire. On est fatigués. On est contents de ce que cela a donné. Puis, il se peut que les circonstances vont faire que l'année prochaine, on ne sera pas capables de recréer quelque chose comme ça parce que—je ne sais pas, moi. Il peut arriver plein de choses. Mais ce qu'on veut vous dire, c'est qu'on l'a fait parce qu'on le voulait bien. On ne peut pas s'attendre à ce que chaque année ce projet-là va revenir, parce qu'on ne sait pas ce qui peut se passer. En obligeant, en imposant—déjà là, le sourire y est moins, le mot est un peu forcé déjà en partant. Et puis, il serait peut-être moins le « fun » de le faire, justement, comme ça. Je ne sais pas. C'est une fierté de le faire.

**The Chair :** Thank you. Is that the completion of your presentation?

**M<sup>me</sup> Charron :** Oui.

**The Chair :** Thank you very much. We have about four minutes for questions.

**M<sup>me</sup> Claudette Boyer (Ottawa-Vanier) :** Je veux vraiment féliciter l'AEFO de cette présentation. C'est sûr

que vous avez touché à des points que d'autres groupes ont touchés, mais quand même, c'est sûr, comme madame la Présidente a dit, que les francophones ont quand même des besoins différents de la province.

J'ai vraiment aimé quand vous avez parlé de la dignité et du professionnalisme de nos enseignants et de nos enseignantes. C'est sûr que ça existe.

Vous avez dit que ce projet de loi apportait de faux problèmes et punissait des innocents, je dirais même qui punit des dévoués qui croient à ce qu'ils font. C'est vrai, ce que vous avez dit et ce que beaucoup d'autres ont dit : qu'on ne peut pas légiférer le bénévolat, on ne peut pas légiférer l'enthousiasme. Il faut que ce soit quelque chose spontané. Il fait des années que ça se fait.

Vous avez loué leur professionnalisme, mais dans votre présentation vous ne parlez pas, ou je ne l'ai peut-être pas entendu, du moral des enseignantes et des enseignants dans nos écoles dans le moment. Je pense qu'il serait très important qu'on sache comment est le moral de nos enseignants.

**M<sup>me</sup> Routhier Boudreau :** Il est évident que les enseignantes et les enseignants ne comprennent pas d'où vient cette nécessité d'encadrer de telle façon les activités parascolaires. Nous n'avons connu dans nos écoles que du succès à ces niveaux-là. Les enseignantes et des enseignants y participent avec plaisir. C'est la seule occasion qu'on a comme enseignants de démontrer à notre façon ce qu'on veut faire en surplus pour et avec nos élèves. Ce sont des relations très spéciales qui se développent avec les activités parascolaires, ce qui est à l'extérieur de l'encadrement rigide de la journée scolaire, et les enseignantes et les enseignants sont tout à fait démoralisés parce que, ce qui se produit, c'est qu'ils se sentent attaqués, bafoués, et certainement pas reconnus pour tout le travail qui est fait jusqu'à aujourd'hui.

**M<sup>me</sup> Charron :** Je suis là depuis trois ans, et déjà je vois des enseignants qui viennent de commencer et qui disent : « Mon dieu, c'est fou. C'est fou si on nous en demande encore plus. » Il y en a beaucoup qui décident même de laisser tomber et d'aller ailleurs. Je le vois, moi. Je suis autour de ça, et on continue. J'ai le goût de continuer mais pas avec les restrictions, les bâtons dans les roues. On le fait vraiment parce qu'on a du plaisir, puis les enfants le voient aussi. On a un bâton dans les roues en se faisant dire qu'il faut le faire, il faut le faire. Il me semble que, quand on nous impose quelque chose, on veut faire tout le contraire. C'est ça ce qui se passe.

**M<sup>me</sup> Routhier Boudreau :** Je voudrais tout simplement ajouter que nous ne sommes que, avec ce projet de loi, de simples exécuteurs. Il n'y a plus de place pour l'initiative. Tout est faibli, tout est encadré.

**The Chair :** Thank you for your presentation.

#### CANADIAN UNION OF PUBLIC EMPLOYEES

**The Chair :** The next presenters are Charlotte Monardo, chairperson of the Ontario school board coordinators committee; Sylvia Sioufi, research officer;



and Antoni Shelton, executive assistant, Canadian Union of Public Employees. Good morning.

**Ms Charlotte Monardo:** Good morning. The Canadian Union of Public Employees is Canada's largest union, representing 460,000 public service workers across the country. In Ontario, CUPE represents nearly 46,000 school board employees, in almost every district school board and in all four systems—English and French, public and Catholic. Our membership has grown significantly as a result of recent representation votes; over 11,000 new members have joined CUPE, clearly establishing CUPE as the voice of education support workers.

The services our members provide are integral to a high-quality public education system. Students know it. Teachers know it. Parents know it. Although the funding formula lumps most of the work we do into a "non-classroom" category, it is hard to imagine a classroom without the services provided by CUPE members. We are the ones who keep classrooms clean, keep schools healthy and safe, and do all the important administrative work that puts students and teachers in the classroom. We are the ones who provide services to enhance education in the school and in the community.

We are the educational assistants, the custodial and maintenance workers, the clerical and secretarial support, the adult education and second-language instructors, the technical staff, the library staff, the seniors' instructors, the counsellors and social workers, the board and administrative staff, the bus drivers, the parenting instructors, the aquatic staff, the music instructors, and more.

CUPE members are long-term employees dedicated to students and committed to a high-quality public education system. We are also parents with children in elementary and secondary schools. So, whether at the bargaining table or in the community, we advocate for initiatives to protect and build on Ontario's public education system.

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The Canadian Union of Public Employees would like to thank the members of the standing committee on justice and social policy for the opportunity to share the views of education support workers on Bill 74, the Education Accountability Act. The work of the committee is very important, because it is essential that everyone have an opportunity to contribute to the formation of public policy. We regret, however, that more individuals and organizations are not afforded the chance to address their concerns to the committee.

Bill 74, despite its official name, does nothing to "increase education quality," is not about improving "the accountability of school boards to students, parents and taxpayers" and will create such disruption that it is difficult to imagine how it can "enhance students' school experience."

CUPE believes that this legislation fits well with the government's education reform initiatives, which have seen the province take control of education not, as the education minister claims, to "keep Ontario's publicly

funded education system firmly on the path toward quality," but rather to cut education funding.

CUPE members are concerned that Bill 74 will see the provincial government take further control over our education system, will erode the principles of democracy by limiting the ability of elected school boards to respond to the needs of their community, and is a direct attack on free collective bargaining.

The Harris government has maintained a theme of smaller government and less interference in the lives of Ontarians. Their actions, however, tell a very different story. This government has taken control of education and concentrated power in an unprecedented way.

Since taking power in 1995, this government has cut the number of school boards and trustees, imposed a one-size-fits-all funding model, implemented province-wide curriculum and testing, limited the decision-making power of elected trustees, introduced a provincial code of conduct and announced teacher testing and recertification. Bill 74 further entrenches the minister's supremacy over every aspect of our education system.

The government has justified this centralization of power by saying that education is a provincial responsibility. However, this principle implies only that education is not a federal responsibility. Historically, provincial governments have understood their role to be one of broad policy-setting rather than dictating and micro-managing the education system.

Schools are the oldest form of local democracy. We have always elected school trustees to represent the needs and interests of our communities. It seems that this government is suggesting that this democratic institution is unnecessary.

School boards are already struggling to meet local needs under the government's rigid funding formula. What little flexibility boards have to respond to local needs will be seriously eroded by Bill 74.

This government is also taking control of the collective bargaining process. They have undermined the principles of local governance and the rights of employees. By limiting the flexibility of boards, the government is taking away the rights of education workers to improve their working conditions. Bill 74 is a further intrusion into the long-established relationship between education workers and school boards.

As a result of Bill 160, this government has already given itself the power to assume control of a school board if the board operates in a financial deficit. When the Greater Essex County District School Board attempted to protect programs and quality education, the minister stepped in to stop the challenge to the Tory funding model.

We believe that Bill 74 has been introduced to send a message that the government will not tolerate dissent to its education reforms. Rather than showing leadership by encouraging best practices, this government and this minister have chosen to impose a cookie-cutter approach where even the thought of being different is punishable.

Bill 74 gives the minister sweeping powers to investigate and take over the operations of democratically elected school boards. School boards can be investigated whenever the minister "has concerns that the board may have done something or omitted to do something and the act or omission contravenes, indicates an intention to contravene or may result in a contravention" of a broad list of ministerial requirements and legislative provisions: curriculum matters, extracurricular activities, class size, instructional time, trustees' remuneration, funding formula.

In other words, the minister can initiate a full investigation on the smallest pretense. To make matters worse, the minister is not obligated to appoint an impartial person to carry out the investigation. The investigator is given broad, police-like powers such as search and seizure. This essentially brands any school board which is under investigation as a criminal operation. Only, unlike criminals, school boards will have no guarantee that they will receive a fair and impartial hearing. This questionable process can actually result in a board being placed under trusteeship, completely at the discretion of the minister.

This erosion of democracy has a very direct impact on education workers and the system as a whole. Education support staff have been the target of cuts as a result of the funding formula imposed by this government. The funding formula essentially dictates to school boards how much to spend and on what, regardless of local needs and practices. It is becoming increasingly clear that this minister does not recognize nor value the contribution of support staff to the education of Ontario's students. What happens if a board believes a certain level of support staff is needed, beyond what the ministry deems as necessary? Will that board face an investigation? It is CUPE members who ensure the health and safety of students and staff by cleaning the schools, securing the grounds, fielding calls, supervising lunch. Will boards be forced to choose between ensuring proper health and safety and meeting the ministry's arbitrary funding formula?

Bill 74 will lead to an unprecedented level of uncertainty in the education sector. With school boards stripped of meaningful say over the delivery of education, who can students, parents, teachers and support staff turn to? Who can be held accountable?

Bill 74 marks the beginning of the end of free collective bargaining in the education sector, and perhaps in this province. We don't believe this is too strong a statement. The ability of school boards to negotiate in good faith has already been seriously compromised by the funding model. However, Bill 74 is an overt attack on hard-won and legally established employment rights.

The idea of mandatory volunteerism should raise concerns for every worker in this province. Bill 74 suggests that teachers can be assigned virtually any school-related activity, any day, any time. In fact, the definition of extracurricular, or so-called co-instructional, is so broad that we have to wonder, can teachers be asked to clean classrooms or drive the buses?

CUPE supports the teachers' federations in their efforts to protect their right to free collective bargaining.

CUPE members, like all in the education sector, have been subjected to a complete overhaul of the education system without even a minute to catch our breath. This government has imposed change after change, not to improve education but rather to cut costs.

Hundreds of CUPE members have lost their jobs. The workloads of those who are left behind become unbearable, and staff morale is at an all-time low. It is time for accountability, to be sure. It is time for this government and this education minister to be held accountable for the crisis they are creating in education.

Bill 74 will not improve accountability. Bill 74 is nothing more than a mean-spirited piece of legislation that tells the education sector: "Don't even think about challenging the government. We can take away your rights as workers, as employers, as voters, as parents and as democratically elected trustees. We can take away your rights as students to a high quality public education system built on values of freedom of speech, mutual respect and democracy."

1100

What a lesson for Ontario's students. What a lesson for us all.

CUPE can't even begin to make recommendations for improving Bill 74. There is nothing in this piece of legislation worth implementing.

CUPE urges the standing committee on justice and social policy to strongly recommend the withdrawal of Bill 74.

**The Chair:** Thank you, Ms Monardo. There are about two minutes for questions, and I suspect it will all be taken up by Mr Marchese.

**Mr Marchese:** Thank you for your presentation. You've covered a different angle that some others haven't touched on. I agree with your conclusion. Some people think that you might be able to tinker with this bill; I don't believe you can. The only thing you can do is either accept the badness of this bill or simply reject it altogether.

You raised an issue on page 5, "Bill 74 has been introduced to send a message that the government will not tolerate dissent to its educational reforms." On page 13 it speaks to that: "The board and each of its members, officers and employees shall comply with the orders, directions and decisions of the minister under this part in any matter relating to the affairs of the board, and any such person who knowingly fails to comply with any such order, direction or decision, or who, as a member of the board, votes contrary to such order, direction or decision, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000."

Their silence will be legislated, which is what I think you were saying here.

**Ms Monardo:** Correct.

**Mr Marchese:** Again, I think you've touched on different parts of this bill that we need to talk about, because although we were talking about teachers, it



affects the non-teaching side as well in many ways, and I appreciate that contribution.

With respect to the hearings, we had one day, today, and two hours in Barrie. Do you think that's a sufficient amount of time for making the government accountable to itself, or do you think maybe a little more time might have been useful in the accountability debate?

**Ms Monardo:** I think it's safe to say—

**Mr Guzzo:** Be honest.

**Ms Monardo:** I'm being very honest. It's very safe to say that, as outlined in the brief, the public and organizations that are part of the school communities that our members are part of, no, have not had opportunity to address this particular bill.

Clearly, a day and a few hours in another city within the province are not enough for those of us who are involved in education, and that includes parents, who have a say in education. We have not had an opportunity to address this bill and the impact of it.

**The Chair:** Thank you, Ms Monardo. That's your two minutes.

#### CHARLIE MAZER

**The Chair:** The next speaker is Mr Charlie Mazer. Good morning, Mr Mazer. You have 10 minutes.

**Mr Charlie Mazer:** Good morning and thank you for having me here this morning. If you don't mind, I'm going to take my opportunity to fix up some of these dry proceedings here.

**The Chair:** Please do.

**Mr Mazer:** Thank you very much for allowing me to appear before you today to express to you what I see as a very positive aspect of this legislation. I am speaking to you today not as a representative of any particular organization; I don't belong to one. I'm happily retired. I'm speaking to you today as a grandparent of four small children, two of whom are already in the school system and two who will be entering within a few years. I have some grave concerns about their future.

My concern is with the growing level of disruption in students' access to the very important area of extracurricular activities. This aspect of the education process is being used more and more as the target of both political protests and the collective bargaining process outside of the Labour Relations Act, 1995, as it applies to teachers.

The greater problem, as I see it, is that the loss is borne not by the parties whose interests are in dispute in the collective bargaining process but by a particular group of students who participate in those activities.

Extracurricular activities are an important part of school life, and they are the avenue to the development of life-long skills of leadership, team work and problem-solving. These activities form positive civil behaviors in students as a result of the inter-personal skills learned in the process of achieving goals in athletics, the production of yearbooks, drama clubs and the whole host of other extracurricular activities that students have participated

in in the many years that the Ontario school system has been running.

The collective bargaining process for teachers is spelled out in labour relations legislation, and it provides for legal solutions and legal sanctions up to and including a strike. In a legal strike, each side must be and is prepared to accept the normal financial and political costs of seeking their own interests. That's what the legislation is founded on.

In a work-to-rule campaign involving only the withdrawal of extracurricular activities, the teachers suffer no loss of income and the board, happily, keeps the academic portion of the program running. The cost in collective bargaining is borne by a select group of students and their parents, and their grandparents, namely those people participating in extracurricular activities. Thus there is no equality in bearing the disruption. The effects are felt by one distinct group of students and their parents. I ask you, how can this be fair?

Another problem is that generally not all teachers participate in the targeted activities, causing division within the working environment. The way I see it, Bill 74 puts the withdrawal of extracurricular activities in the category of a strike within the labour relations law. In these circumstances, the action creates a direct cost to the parties seeking to further their own interests and would be carefully considered by those parties before such action is undertaken.

In this respect at least, Bill 74 corrects the increasing use of work-to-rule situations where only students who participate in these activities, and their parents, suffer the consequences of other parties, each seeking to further their own interests. As such, I think the bill should be favorably considered by the committee.

Thank you very much for your kind attention. To the limited extent that I have expert knowledge in the other matters of Bill 74, I'd be glad to answer questions to the best of my ability.

**The Chair:** Thank you, Mr Mazer. We have about four minutes for questions. Government side, Mr Guzzo.

**Mr Guzzo:** Thank you for coming here. I wonder if you wouldn't just elaborate on your background. You're retired now, but what did you do for a living?

**Mr Mazer:** I was a high school teacher for 33 years.

**Mr Guzzo:** Here in the Ottawa area?

**Mr Mazer:** Yes, I was here in the Ottawa area, and I took part in two strikes on behalf of the local union, in the mid-1970s and again in the mid-1980s.

**Mr Guzzo:** During your years as a teacher, you were involved in extracurricular activities?

**Mr Mazer:** My organizational skills were not the very best outside the classroom. I remember my one unhappy experience in coaching athletics involved track and field. I guess I didn't quite take the right attitude towards this. I insisted that the students go out there to have fun and learn a little bit more about themselves. I don't think I had quite the kind of competitive spirit that led to the direction of winning teams, so I was very quickly replaced by the head of track and field. The students went

on to have a lot of fun anyway and I think some actually placed fairly close to winning.

**Mr Guzzo:** Thank you for coming down, sir.

**Mr Mazer:** I'm glad to be here.

1110

**Mr Richard Patten (Ottawa Centre):** You talked about your four grandchildren. Are you suggesting that they have had extracurricular activities withdrawn from them or denied them?

**Mr Mazer:** What I'm concerned about is that the framework in which extracurricular activities are delivered now leaves them to be arbitrarily withdrawn as an unofficial strike. I believe teachers need the right to strike. I would not want to see a situation where teachers are placed in a position where they simply have to accept the dictates of another party.

**Mr Patten:** So your grandchildren have not been adversely affected?

**Mr Mazer:** Let me just finish my answer and I'll get on to your point. My thinking is that the process has to be such that teachers have some avenue of making their views known. It could be that binding arbitration is the answer, rather than strike. But I believe there has to be some process for teachers to make their views known and to actively participate in that. So I believe that the right to strike is essential. That's exactly my point. I don't see that the withdrawal of voluntary services, or the withdrawal of extracurricular activities, is really within the spirit, and maybe not even within the letter, of the labour relations law, because it does put the onus only on a select group of students. I think it's arbitrarily decided, because it has no foundation in the labour relations law. Does that sort of get to your point?

**Mr Patten:** No, you didn't mention your grandchildren.

**Mr Mazer:** My grandchildren. I'm concerned—

**Mr Marchese:** I have a question.

**The Chair:** Mr Marchese?

**Mr Marchese:** May I ask you a question?

**Mr Mazer:** Yes.

**Mr Marchese:** We're running out of time. It's good to know you were a teacher. You know what makes the extracurricular activities is the voluntary nature of it, and that people do it because they have a desire and skill. You ended up doing track and field, and you said you wanted them to have fun; they wanted to compete. God bless, there's a difference here, but, generally people do it because they want to do it and it's part of that, right?

**Mr Mazer:** Yes.

**Mr Marchese:** They're saying what was voluntary is now forced. Some 99% of boards are doing it, including Durham, we heard, where, in spite of the forced arbitration they had, many people are still doing extracurricular activities. Some, because of the changed nature of the extra work, are deciding, "I don't have the time any more, because I've got a family and I have a life." They're now saying they're going to be forced to do it. Do you think teachers are going to find the desire and the

interest when you tell them they've got to do it? Do you think it's going to be done now?

**The Chair:** You have about 10 seconds to answer that.

**Mr Mazer:** I'll tell you very frankly, under Bill 74 I don't see that a whole lot is going to change.

**Mr Marchese:** Well, you're wrong.

**The Chair:** Thank you, Mr Mazer.

## WENDY FISH

**The Chair:** The next speaker is Wendy Fish. Good morning, Ms Fish.

**Ms Wendy Fish:** Good morning and thank you for taking the time to hear my concerns about Bill 74. My name is Wendy Fish, and I'm the mother of a nine-year-old son who has been seriously affected by the continuing cuts to education in Ontario. Because of these cuts, programs for gifted children have disappeared, and my son's learning has suffered. It has taken four frustrating years to get the proper testing done to acknowledge that my son is both gifted and learning disabled at the same time.

In the meantime, I have fought a top-heavy system full of administrative red tape and too few qualified personnel, who are the key to support for special-needs students. Instead of cutting unnecessary administrators, it has been psychometrists and special-education teachers who have lost their jobs. How does this help special-needs students in Ontario?

Bill 74 is yet another smokescreen set up by Mike Harris to fool the people of Ontario and to take even more money out of an already poverty stricken system. Fewer teachers teaching more students does not equate to a quality education for my son or for anyone else's children in this province. What it does equate to is more money in the government's pocket and less money for the programs and teachers our children desperately need.

I am also here as a high school teacher with an incredible passion for my profession and for my students. Over the course of my 17-year career, I have voluntarily, and with a great deal of pride, spent thousands of personal hours coaching volleyball, curling and track and field, often to the provincial and national levels. I recently attended the provincial high school track and field championships in Windsor, and I continue to be amazed at the spirit of volunteerism shown by my colleagues with this kind of bill sitting in front of us. I have organized and supervised innumerable field trips, including an annual three-day excursion with 45 students to Stratford, Ontario. No one forces me to volunteer.

Bill 74 cannot tell me to love what I do and to love the kids with whom I work. In fact, it may well take that away from me and from my students. What it has already done is make me question how someone can have the arrogance to legislate me to perform duties that I do voluntarily, while at the same time forcing me to teach more students and making me available to my principal 24 hours a day, seven days a week, anywhere in the



world. If people think principals won't exercise that power, then they haven't met some of the principals I know. I will no longer be able to plan time for my family with an extra class to teach and with a principal who can demand my attendance anywhere, any time; and they'll do it whether you believe it or not.

The concept of a personal life outside of teaching will become merely a dream with Bill 74. Bill 74 is yet another way for Mr Harris to demoralize the people who care for and educate the children of this province. How is that going to assist the government in providing quality education? How is that going to prepare our children to be future leaders? What an example to set. Trampling people's civil rights by removing the ability to collectively bargain their working conditions puts us in line with countries run by dictators who consider themselves above the law.

The children of Ontario deserve better. Bill 74 puts the minister and her decisions outside of the labour laws of this province and removes the most basic of democratic rights. It destroys the pride and dedication of the people who influence children on a daily basis. How can such undervalued and demoralized teachers then provide quality education?

In their May 29 issue, Maclean's magazine ran a cover story entitled "What the Boss Needs to Know," and I think perhaps it's time the government read the article and paid attention to it. I would like to quote a few facts from the article. Did you know that teachers are among the most committed workers in Ontario? How can commitment be legislated? It can only be destroyed. Another point is made: "Even jobs that look great from the outside"—obviously teaching—"can become nightmarish when employees feel frustrated at every turn by management. Typically, attitudes turn sour, motivation dries up, and an otherwise innovative and productive person sinks into resignation or anger, and sometimes worse." I hope that sounds familiar to some of you.

Bill 160 began that process for teachers, and Bill 74 will finish the job. My son and all children in Ontario deserve better, and I urge you to demand that Bill 74 be removed from the floor of the Legislature immediately, before it's too late. Thank you.

**The Chair:** Thank you, Ms Fish. Ladies and gentlemen, I would appreciate it if—cellphones are very, very disruptive, so if you could please turn them off. It was something I neglected to ask you to do at the beginning of the morning, so I apologize for that. But I would appreciate it if you would please respect the speakers.

We have about three minutes. Mr Kennedy.

**1120**  
**Mr Kennedy:** Ms Fish, I wonder if you could comment—

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** It's our turn.

**Mr Marchese:** I spoke last.

**The Chair:** I'm sorry. There were three questions that were asked, and when we have three questions asked, we change the rotation.

**Mr Marchese:** All right. Go on, Madam Chair.

**The Chair:** So don't question me, please. Mr Kennedy.

**Mr Kennedy:** I wonder if you could elaborate for us a little bit more. The government is obviously trying to take money away by firing some of your colleagues or, because so many are retiring, by just not having teaching positions there that used to be there. They're trying to cover this up by provoking you with this extracurricular stuff. I don't think we fully get it. I think for the rest of us you must feel like you're teaching on the moon. It often must feel like people don't understand what it's like in the classroom.

What do you think the impact is going to be the day after Wednesday? The members opposite have invoked closure, which is an ironclad—slam—undemocratic use of rules that says this will be voted on. No matter what you say today, these sham hearings are just a cover, just a patina of democracy to go with the rest of it. What will be the impact now? How are your colleagues feeling? What will they feel next? How does this translate in the real world to the students in terms of the ability of people to reach down and do things for them?

**Ms Fish:** Morale, I would say, is at an all-time low. In 17 years of teaching I've never seen people so destroyed by a government. I think the impact is going to be devastating for everyone. The amount of energy I'm going to be left with will be barely enough to keep me alive, let alone have some time for my son, let alone have time for my students after school, in the evenings. To all the grad students who are in contact with me on a regular basis I'm going to have to say: "I'm sorry, I don't have time. My principal has told me I have to do this, this and this." I think it's going to be absolutely devastating.

**The Chair:** Mr Marchese, one minute.

**Mr Marchese:** Thank you for your presentation. I think we often separate the issue of extracurricular activity as being volunteer, and now a forced one, and separate it from the fact that you're now being required to teach literally an extra period. It's not a half-period, it's an extra period. We need to see that in conjunction with each other and the double effects of it. It is a double whammy, in my view. Do you agree that we should put it in the context of one and the other in terms of the effects it has on you individually and collectively?

**Ms Fish:** Absolutely. I'll go back to my comment that having fewer teachers teaching more students does not create quality education, plain and simple, and they don't separate out. If you care for what you do and you care for your students, you can't take that apart. Bill 74 will.

**Mr Tascona:** I was curious about your comment, "They didn't cut unnecessary administration, but they cut specialized support." Can you elaborate on that?

**Ms Fish:** Yes. I'm coming from the Upper Canada District School Board, where there were four amalgamated school boards, and they're very top-heavy. I don't think that in the amalgamation process there were more than a couple of jobs lost at the administrative level. We have two psychometrists to do the testing process for students in over 120 schools. It took me four years to get

somewhere with my son, and I know the system. I feel very sorry for the people who don't know it.

**The Chair:** Thank you very much, Ms Fish.

ASSOCIATION DES CONSEILLÈRES  
ET DES CONSEILLERS  
DES ÉCOLES PUBLIQUES DE L'ONTARIO  
ASSOCIATION FRANCO-ONTARIENNE  
DES CONSEILS SCOLAIRES  
CATHOLIQUES

**The Chair:** The next speaker is Louise Pinet, executive director of l'Association des conseillères et des conseillers des écoles publiques de l'Ontario. Good morning.

**M<sup>me</sup> Louise Pinet :** Bonjour, madame la Présidente, membres du comité de la justice et des affaires sociales, mesdames et messieurs. De toute évidence, je ne m'appelle pas Daniel Morin, qui est le président de l'association et qui présente ses regrets. Il a été impossible de se rendre à la rencontre de ce matin.

Je suis Louise Pinet, et je suis la directrice générale de l'Association des conseillères et des conseillers des écoles publiques de l'Ontario, l'organisme qui représente les quatre conseils scolaires du système des écoles publiques de langue française.

Permettez-moi de vous présenter M. Rhéal Perron et M<sup>me</sup> Lorraine Gandolfo, de l'Association franco-ontarienne des conseils scolaires catholiques, à qui nous avons accordé un peu de notre temps afin d'assurer que tous les conseils scolaires de langue française ont l'occasion de se faire entendre.

L'ACÉPO veut souligner des éléments qui, dans la loi 74, affecteront le vécu quotidien de tous les élèves francophones et le rôle des employeurs que sont les conseils scolaires. L'ACÉPO tient à vous dire qu'elle appuie la réduction de l'effectif moyen de l'ensemble des classes et voudrait même que cet effectif soit réduit davantage pour que l'ancienne norme des premières années d'études soit de nouveau en vigueur.

Notez aussi que l'ACÉPO enjoindra les conseils scolaires membres de respecter la loi si elle est adoptée. Mais comment est-ce que cela se traduira-t-il au jour le jour ? C'est ça, la question. Enrichir l'expérience scolaire des élèves grâce à l'adoption du projet de loi 74, est-ce un non-sens ?

Rappelons-nous le temps que nous avons passé à l'école : en ville, en campagne, petite école, grosse école, bonne école, moins bonne école, chaque école était en mesure de mettre de l'avant ses priorités, ses besoins éducatifs, son propre programme d'activités complémentaires, son code de vie à la lumière de sa communauté à l'intérieur d'un encadrement. Rappelons-nous aussi notre relation avec chacun de nos enseignantes et enseignants. Souvenons-nous de nos amis, les élèves : les élèves en difficulté d'apprentissage, les élèves en difficulté de comportement. Et puis, faisons le lien avec le projet de loi qui nous préoccupe tant. Pour que le projet de loi ait du bon sens, il faut que la vie scolaire de

l'élève sous la responsabilité du conseil scolaire soit améliorée. Le sera-t-elle ?

Nous ne voyons pas comment. Il ne s'agit pas de dire qu'il n'y a rien à changer ou à améliorer. Il ne s'agit pas de dire que les élèves ne sont pas pénalisés quand les activités éducatives et culturelles ne sont pas offertes. Il ne s'agit pas de dire que les conseils scolaires ne veulent pas être tenus responsables de la gestion qui leur incombe. Il s'agit de voir comment les changements de pouvoirs prévus dans le projet de loi serviront à atteindre l'objectif avancé par le gouvernement.

Du point de vue du conseil scolaire responsable de gérer la mise en œuvre, qu'est-ce que le nouveau projet de loi apporte ?

(1) Dans l'application pratique de l'exigence d'assurer des activités complémentaires, quelle politique permettra à un conseil scolaire d'assurer que chaque école offre toutes les activités prévues par la loi de façon équitable pour les élèves ? Les activités complémentaires tiennent du bon vouloir des gens, et l'on ne peut pas gérer le bon vouloir. Voilà le dilemme.

Comment les conseils scolaires peuvent-ils être tenus responsables de la façon dont les activités complémentaires seront offertes ? Car on sait tous qu'il est possible de contribuer à faire échouer un projet tout comme il est possible de contribuer à son succès. De façon réaliste, dans le contexte actuel, nous craignons que les impacts de l'adoption du projet de loi 74 soient bien plus négatifs que positifs.

Tout nouveaux sur la scène de la gestion des écoles, les conseils scolaires de langue française ont mis de l'avant des politiques de consultation, de concertation et de partenariat qui ont soutenu une collaboration, pour la plupart efficace, dans l'offre des activités complémentaires. La présente loi fait fi des travaux accomplis et impose un nouveau contexte d'action alors que nous avons eu à peine le temps de faire sécher l'encre.

(2) Quant aux conséquences pour un conseil scolaire de ne pas respecter la loi, le pouvoir du ministre de l'Éducation serait d'une très grande portée. En se fondant sur une « crainte » de son propre chef, ou pour donner suite à une plainte d'un conseil d'école ou de contribuables, le ministre aurait le pouvoir de surveiller la capacité de gestion globale, par exemple la responsabilité financière, et aussi la capacité de gestion spécifique, par exemple le nombre d'heures d'enseignement, les activités éducatives, sociales et culturelles. Le pouvoir serait susceptible d'excès.

En ce qui touche les activités complémentaires ou parascolaires, le conseil scolaire aurait la responsabilité légale d'assurer le respect de la loi sans avoir la capacité financière d'assurer l'offre des activités, car les activités complémentaires sociales et culturelles sont des activités qui engendrent des dépenses financières. Pensons aux frais de transport, au coût de l'équipement, à l'aménagement de sites ou à la location de locaux, pour ne mentionner que quelques exemples. Le projet de loi modifie les conditions de la prestation des services complémentaires, mais rien ne garantit que la qualité en sera améliorée.



Le conseil scolaire peut-il jouer son rôle d'employeur efficacement pour rehausser la qualité de l'éducation et accroître sa responsabilité si le projet de loi est adopté ? En ce qui concerne le temps d'enseignement, les conseils scolaires des écoles publiques veulent demeurer responsables de gérer toutes les clauses des conventions collectives des employés du conseil afin d'assurer un encadrement cohérent qui tient compte de la prestation des services en français dans un milieu minoritaire.

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Ça étant dit, l'objectif est de rehausser la qualité de l'éducation. Un des moyens choisis par le gouvernement est d'augmenter les heures d'enseignement par enseignant ou enseignante tout en conservant le même nombre d'heures d'apprentissage pour les élèves. En quoi cela améliore-t-il la performance éducative ? Difficile à dire.

Dans ce débat, nous avons l'impression que ce n'est pas l'objectif à atteindre qui a motivé l'action mais un problème à résoudre. Puisque la situation financière de la province est maintenant améliorée, ne devrait-on pas plutôt revoir le projet à la lumière de l'atteinte des objectifs d'amélioration de rendement des élèves, de la mise en oeuvre du nouveau curriculum et des problèmes à résoudre ?

Les conseils scolaires sont des corps publics, élus pour gérer l'offre de l'éducation élémentaire et secondaire sur un territoire donné. Il nous semble alors qu'il devrait y avoir une capacité d'action locale, dans le respect des grandes politiques et orientations provinciales.

Les études menées sur les progrès accomplis dans la mise en oeuvre des conseils scolaires ont été, dans leur ensemble, positives. Les améliorations à apporter ont été soulignées. Parfois, il est arrivé que les recommandations avancées par la Commission d'amélioration de l'éducation ont été revues, car celle-ci n'avait peut-être pas eu accès à toutes les données nécessaires à la prise de décision. Cela a quand même confirmé que la réforme a eu des retombées positives.

Cependant, l'ACÉPO estime que toutes les réformes apportées n'ont pas encore porté fruit et qu'il faut un temps pour la mise en oeuvre, avec une capacité d'analyse continue de celle-ci. Nous croyons que les solutions apportées par le projet de loi 74 visent des éléments de mise en oeuvre qui peuvent être résolus localement. Il faudrait envisager du point de vue provincial un processus de résolution de différends pour les situations qui posent des difficultés insurmontables. À notre avis, cependant, cela serait plus efficace et beaucoup moins coûteux en termes financiers et surtout en termes humains.

À ce moment-ci, j'aimerais passer la parole à M. Perron, président de l'AFOCSC.

**M. Rhéal Perron :** Madame la Présidente, bien chers amis, mon nom est Rhéal Perron. Je suis président de l'Association franco-ontarienne des conseils scolaires catholiques, l'AFOCSC. En plus de présider l'association, je suis également président du Conseil scolaire catholique français Franco-Nord, et président de la

Société d'aide à l'enfance dans ma région de Nipissing-Parry Sound, ce qui me donne une bonne idée de ce qui est bon pour l'enfant à l'école.

L'Association franco-ontarienne des conseils scolaires catholiques représente les huit conseils scolaires catholiques, ainsi que les administrations scolaires de langue française qui regroupent plus de 70 000 élèves dans la province. Déjà depuis 1944 par l'entremise de l'association prédécesseure, les francophones revendiquent afin d'obtenir une éducation de qualité et équitable pour leurs jeunes. C'est avec cet objectif en tête que nous vous offrons aujourd'hui nos propos concernant les changements proposés à la Loi sur l'éducation.

Les conseils scolaires de langue française sont fondés sur une tradition et une habitude de collaboration. Depuis plus de 100 ans, les francophones ont eu à travailler avec la communauté de langue anglaise afin d'obtenir des écoles dans lesquelles leur langue première pouvait faire l'objet de l'enseignement. Plus tard, en tant que sections de langue française, nous avons vu à la mise en oeuvre du curriculum dans les nouvelles écoles de langue française pour lesquelles nous avions une juridiction exclusive. Tout au long du cheminement vers la gestion complète de nos institutions, la collaboration a toujours été un principe sur lequel le futur était envisagé : avec les comités de parents, le personnel enseignant, les élèves, les administrateurs, les paroisses, et la collaboration importante avec le ministère de l'Éducation.

Ce principe de collaboration s'inspire de la passion que nous avons pour la réussite scolaire des élèves catholiques de langue française et également notre passion pour l'épanouissement de la communauté franco-ontarienne, du berceau au tombeau.

C'est dans cette perspective que nous avons pris connaissance des modifications proposées à la Loi sur l'éducation, et nous nous questionnons sérieusement sur les raisons de ces changements. Il faut comprendre que nous ne sommes pas opposés aux changements positifs, et nous en avons vécu plusieurs avant d'obtenir la gestion de nos écoles. Nous croyons, cependant, que non seulement le rythme des changements est problématique, mais nous ne sommes pas certains de bien comprendre les raisons qui les motivent.

Depuis les deux ou trois dernières années, le système d'éducation s'est vu confier la responsabilité de la mise en oeuvre de plusieurs changements. Franchement, nous aimerions connaître une période de stabilité afin de permettre aux élèves de faire la transition requise d'un changement à l'autre.

Nous ne comprenons pas pourquoi il est nécessaire de légiférer la bonne volonté du personnel enseignant en imposant les activités parascolaires comme charge additionnelle de travail, d'autant plus que l'on exigerait que le personnel enseignant soit disponible n'importe quand. Nous estimons que ceci va à l'encontre des droits des travailleurs et fait fi des principes de justice sociale. Les enseignantes et les enseignants des écoles catholiques de langue française ne sont pas avares de leur temps ni de leur dévouement. Nous jugeons ceci comme

une mesure réactionnaire qui a pour but de régler une seule situation en Ontario.

Dans les conseils scolaires catholiques de langue française, les activités parascolaires sont une partie intégrale de la communauté. Plusieurs activités offertes en français ne sont disponibles qu'à l'école et servent à freiner l'assimilation. Pourquoi tenter de réparer quelque chose qui n'est pas brisé dans nos conseils ? Est-ce un problème réel ou un faux problème qu'on veut résoudre ? Est-ce que ce changement va dans le sens de l'épanouissement des élèves catholiques francophones ? Nous sommes d'avis que non. Nous sommes également d'avis que ceci créera un climat de confrontation au sein de nos écoles, et nous n'avons aucunement besoin de telles confrontations.

Dans les modifications proposées à la Loi sur l'éducation, il est proposé de donner des pouvoirs accrus au ministre de l'Éducation afin de permettre à cette personne, une seule personne, de prendre les affaires d'un conseil en main au besoin. Nous comprenons difficilement comment ceci aura un impact positif sur l'épanouissement de l'élève catholique francophone. Les principes de démocratie sont ancrés dans notre société depuis des années. Il existe déjà des mécanismes en place pour corriger les situations indésirables au sein des conseils scolaires. Cette modification se veut une atteinte à la démocratie locale. Elle est très insultante pour les élus en place. Les conseils scolaires se voient attribuer bien peu de discrétion, ce qui constitue un changement radical du temps où les préoccupations locales étaient prioritaires. Encore une fois, nous jugeons que cette modification est en réaction à une situation isolée et n'est aucunement fondée sur la réalité.

Dans son dernier rapport, La voie de l'avenir IV, la Commission d'amélioration de l'éducation offre l'opinion suivante : « À notre avis, le processus de restructuration a été couronné de succès... Nous avons constaté des progrès dans tous les secteurs des opérations des conseils que nous avons étudiés. »

Nous gérons nos conseils scolaires de langue française de manière responsable et nous avons l'intention de continuer à le faire. Il est regrettable que les changements proposés jettent un doute quant à la capacité des décideurs démocratiquement élus de s'acquitter de leurs tâches.

Nous continuons à nous questionner sur la pertinence de ces changements sur la qualité de l'éducation dans nos écoles. Allons-nous vraiment vers l'épanouissement des élèves catholiques francophones avec ceci ? Allons-nous contribuer à créer des communautés ouvertes et respectueuses des collaborations en place ? Sommes-nous vraiment assurés que ces changements n'auront pas pour effet la réduction du bénévolat du personnel enseignant dans nos écoles ? Comment allons-nous assurer la relève autour de la table du conseil et attirer des candidats et candidates de calibre dans ce climat de doute ?

Comme vous pouvez le constater, nous avons plus de questions que de réponses. Cependant, nous sommes

d'avis qu'aller de l'avant avec les modifications discutées ici aujourd'hui contribuera à créer une situation des plus difficiles dans nos écoles et ne fera rien, absolument rien, pour soutenir la passion pour l'éducation de toutes les personnes impliquées dans l'éducation.

Je vous en remercie.

**M<sup>me</sup> Pinet :** Madame la Présidente, l'ACÉFO vous demande, à vous et aux membres du comité, de revoir le projet de loi en fonction de sa capacité de mise en oeuvre et de son effet sur le leadership local, leadership exercé par les conseils scolaires et les écoles. À une exception près, soit celle de réduire l'effectif moyen des classes, le projet de loi tel qu'il est rédigé en ce moment ne contribuera pas à rehausser la qualité de l'éducation, ni à accroître la responsabilité des conseils scolaires devant les élèves et les contribuables, ni à enrichir l'expérience des élèves.

Mesdames et messieurs, le projet de loi 74 ne nous offre pas une solution pratique. Trouvons une autre solution.

**The Chair:** Thank you. Your full 15 minutes has been allocated.

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## PARENT NETWORK

**The Chair:** The next speaker is Pat Middleton of the Parent Network.

**Ms Pat Middleton:** If it's possible, I would like to share my time with Linda Querel, who is also a member of the Parent Network.

**The Chair:** Yes. You represent an organization, so you have 15 minutes.

**Ms Middleton:** Thank you for allowing us to speak to you today. My name is Pat Middleton, and I am a parent of four children ranging in age from two to 20. I have been in the public system as a parent for 16 years. I have held positions on school committees and councils for all those years, and at present I am the school council chair for Tagwi Secondary School in Avonmore. I am also a member of the steering committee of the Upper Canada Assembly of School Councils as well as a member of both the Parent Network and the Organization for Quality Education.

I became involved in all these organizations because, as a parent, I felt I wasn't a partner in my children's education. Things were occurring that I wasn't happy with. My children weren't always receiving the education I believed they were entitled to, and I felt I had no input to the situation. The few times when I approached my child's teacher, principal or school board about specific things, I was left feeling that my concerns were not important. Schools and teachers could do as they wished, there was no accountability and I was told that my only recourse was to remove my child from the public system.

I am very pleased with most of the changes that have occurred recently in the education system. I am pleased there is a provincial curriculum in place and that I now know what my children will be taught at which grade. I



am pleased there is a provincial funding formula in place that will tell me where the money for education will be spent in my school board. I am pleased that school councils have been strengthened to allow parent input to their children's schools. But none of these changes will help parents if they have no way to ensure these changes are implemented, and implemented properly. This brings me to Bill 74.

I am amazed at the amount of rhetoric that surrounds this bill, and yet I have heard nothing in the media about how this bill empowers parents and the school community. This bill gives parents and taxpayers the ability to make the school system accountable. If a teacher is not following the curriculum, parents know they can bring it to the attention of the board and the board will have to act. If a school board is mispending funds, taxpayers can bring it to the ministry's attention and the ministry will act on it. Finally there is something we can do to ensure our children receive the education they deserve.

This bill also strengthens school councils. It actually puts school councils into the Education Act, finally. It allows us to take part in making sure the system is accountable. Without this role, many school councils were left spinning their wheels, frustrated that they had no real input to the school. This situation does not encourage the involvement of parents who wish to make a difference in their schools. Hopefully this bill will strengthen the role of councils and result in the involvement of many more parents.

I am pleased to see that the school councils will have input to any school plan regarding extracurricular activities. These activities are very important to our children's education. Because of the inequity of what is offered, students do not benefit equally from school to school. Without the opportunity to pick and choose schools based on what is offered, parents and students should have input to what is offered at the local school.

I am quite pleased with what is offered at my son's high school at present, but I have concerns about what will happen if the involved teachers leave. At the elementary level, extracurricular activities seem to be dependent on the skills of the teachers at the schools. For example, at my son's elementary school there is no teacher willing to organize a choir. I don't know if any of the teachers have the skills to lead a choir. Therefore, to ask for a choir when no one has the skills would be redundant. If a choir is very coveted, then it should follow that this skill should be looked for when hiring new staff. As it stands, it isn't often that staff is hired based on specific skills, and in fact school councils are never consulted when new teaching staff is added to the school.

The one concern I have with this bill is the increase in secondary school teaching time. Increased teaching time will result in fewer teachers at the school, and this will be very detrimental to the small rural schools. This will make scheduling very difficult and will result in more split classes and a greater chance that students will not

have access to courses when they are needed. Tagwi Secondary School, my son's school, is a school of just under 500 students, and almost every teacher is involved in extracurricular activities. Decreasing the number of teachers in our school could result in a lack of manpower to supervise all the activities we now have and wish maintain.

Removing remedial help from the calculated teaching time is also a concern. This is an important duty of teachers and needs to be addressed. Supervision is also required, and if teachers are not given time to do it, then problems could arise. The hiring of supervisory staff separate from the teachers could fill the need and keep our schools safe.

Overall, I like the changes that are occurring in our education system in Ontario. I think this government is on the right track. There are some problems that are apparent in the implementation—sometimes the changes are occurring too quickly—but I believe these changes are required if we want our children to receive the education they are entitled to and deserve. Thank you.

**The Chair:** There is rather a lot of background noise, and I would appreciate that everyone present consider the speakers and respect everyone's right to speak.

**Ms Linda Querel:** My name is Linda Querel, and I am also from the Parent Network.

The latest polls indicate that 91% approve of the new code of conduct, 86% support standardized province-wide tests, 71% to 80% support mandatory teacher testing, 67% agree Tory reforms will improve education quality, 66% agree reforms will benefit students in the years ahead, 58% agree that the true challenge in improving public education is not to spend more but to spend more wisely and 52% agree that extracurricular activities should be mandatory. I would like to speak to the issue of extracurricular activities.

For the most part, the new changes to the Education Act to ensure that students can participate in school activities will not be a problem for most boards or teachers. In the past, and at this very moment, many teachers volunteer many hours to co-instructional activities. The fact that these activities are implemented on a volunteer basis is no guarantee for students or parents that these activities will be available from school to school, from year to year or in the event of any labour dispute. If a computer club or a sport is not offered from year to year once the equipment has been purchased, due to a lack of skill or lack of interest and a teacher does not volunteer, then this is not a good use of funds or resources.

We get a very clear idea of how much these activities mean to students when we hear of a soccer team taking the issue to court, a debating or sports team trying everything to find a way to participate in the finals, students and parents losing their deposits given as payment for some future outing or trip and students coming home and asking their parents to do something so their activities may continue. There have been many frustrated and disappointed students. Right now, some schools offer a full range of activities; others almost none.

Parents and students would like to see a certain number of activities offered at every school, the funds in place to implement these activities and the guarantee that once started they will continue at least throughout the remainder of that year. It is very difficult for both teachers and students, as well as parents, to keep up any enthusiasm when they know they may have to withdraw at any point along the way. I feel this issue was created because these activities have been so frequently withdrawn, and it is not fair to the students. Thank you.

**The Chair:** We have about five minutes, Mr Marchese—

**Mr Marchese:** Five?

**The Chair:** —split three ways. You have about a minute and a half.

**Mr Marchese:** As a socialist I like to share my time. You know that.

**The Chair:** I'm sure you do.

**Mr Marchese:** On the issue of extracurricular activities, I'm a bit concerned. You used—I had some wording that I wrote down, in terms of what you said, that in most school boards most teachers offer their time voluntarily. Remember, this is a voluntary activity. You as a parent would even like to have a say. That's OK. I think it's all right for parents to be able to have a say in terms of what activities might be there. But once this government forces teachers to do it obligatorily, I as a teacher won't any longer decide I will do football, chess or whatever activity, because prior to that I did it voluntarily and now you're forcing me to do it. I might decide I don't want to do that any more, and you as a parent and as a school board can't force me. And if you do force me, I may not put my heart into it. If that's the case, we may not have the activities you desperately would like to participate in.

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**Ms Middleton:** First of all, I don't agree that it should be a voluntary activity. I believe extracurricular or co-instructional activities, or whatever they are called, should be a mandatory part. I also believe that if teachers don't want to do it, and it seems to have been the domain of teachers, especially in my board, it should be opened up to any volunteer. As a volunteer, sorry it isn't; it should, and it isn't. It's a matter of having it both ways. Either let the volunteers in to do it and make it totally voluntary, or make it part of the teacher's job.

As far as I can see, and from talking to teachers in my high school, I can't see there is going to be a big concern, if this is passed, that there will be a withdrawal unless it's mandated by unions, I suppose; I don't know. But when I talk to individual teachers, it seems that everything will just go on as it was before.

**Mr Marchese:** God bless, Pat. It might be.

**Ms Middleton:** It might be.

**Mr Tascona:** Thank you very much. I appreciate your presentation. Certainly the intent of Bill 74 with respect to co-instructional activities is to have input and a role for school councils, a plan to be developed by the school board and implemented by the principal with the school

council's consultation, and for teachers to have a role in that also.

I guess the flip side of the coin is that when there is a work-to-rule and there are sanctions put on the teachers, they have to comply with that. Have you experienced a work-to-rule situation with your children?

**Ms Middleton:** I'll defer to Linda, because my board has not been as bad as hers.

**Ms Querel:** Unfortunately, I have experienced quite a few, yes. Even grad activities that are to take place in the afternoon have been threatened, and I could never understand that. I've also been to the board with a team of football players, wearing their uniforms, asking if anything can be done. I've tried to organize parent volunteers to take over some activities. And unfortunately, even that was not carried out equally at different schools. At some schools, some activities were allowed to continue, and at others, where my children were, no activities were continuing.

**Mr Tascona:** Was that the decision of the principal or the school board?

**Ms Querel:** I'm not sure who made that decision, but it was not equally done.

**Mr Kennedy:** In your endorsement of the government's approach, do you realize—and you probably do; you've studied the legislation. How does the idea, which the legislation presents, that the government will send in an investigator—we don't know what it costs. Every parent gets to complain and every complaint gets investigated by somebody from Toronto, presumably, or somebody from the ministry office. When that complaint is done, if your board is not already doing a good job—I heard a suggestion that if you don't find the board as well as the teachers are doing a good enough job and they need some legislative oversight, if it isn't good enough, the only measure the government has is to basically take over the board. In other words, if the public board, or whichever board you're dealing with, believes it's doing a good job now and says, "No, we disagree with your direction," then the government has to take the board, at whatever cost that entails. It strikes me that that doesn't seem like a very practical way of solving things that could be solved in the community.

Further, a final other thing I'd like you to contemplate: The measures in the bill don't have any restriction on how much could go to a certain teacher or another teacher. Wouldn't you agree that if they're going to be mandatory activities, they should be subject to, say, a 40-hour week or some kind of reasonable thing, so they're not done as an open-ended kind of thing? For example, would you like to have to do things open-ended in your own job? I just wonder if you could comment on those two subjects.

**Ms Middleton:** That's a lot. On the first part, I don't believe the government is going to run in and take over a board if one parent goes and complains about something.

**Mr Kennedy:** What I was saying is, it's the only power they have.



**Ms Middleton:** I understand that. From my experience—I don't want to get too specific here—I have had legitimate complaints. In one incident I took it straight to the board and was told: "We cannot make this accountable. We can't do anything for you." I was actually told by my school board to take my kids out and home-school or go somewhere else.

I feel that with this legislation, through the school council there is a way to make a complaint and have somebody listen.

**Mr Kennedy:** Someone from Toronto.

**Ms Middleton:** And if it takes it as far as having to come in and take over the school board, I'm sure these are reasonable people and they're not going to do it at the drop of a hat. If your party was in power, I believe you would be reasonable too.

**Mr Kennedy:** I appreciate that assumption.

**The Chair:** Actually, Ms Middleton, your time has expired. I appreciate your coming to address the committee.

#### LAMAR MASON

**The Chair:** The next speaker is Lamar Mason.

**Ms Lamar Mason:** I wish to thank you for allowing me to speak this morning concerning Bill 74. In light of the extremely limited hearings that are being held on this important legislation, I consider myself extremely fortunate to be here.

I am speaking today as the parent of four children in the Ottawa-Carleton District School Board. They are presently in grades 12, 8, 6 and 5, so all of them will be impacted by the ramifications of this legislation. I am presently the co-chair of a secondary school, I have been the chair of an elementary school, I am the past co-chair of the Ottawa-Carleton Assembly of School Councils and I currently represent that organization on the special education advisory committee for this board. However, my comments today are based on my personal experience, observations and concerns.

While the stated legislation is to increase educational quality, I believe that the result will be a diminishment in that quality.

Bill 74 requires that teachers in the OCDSB move from teaching six courses per year to teaching 6.67. I am aware that this increase in workload will mean cost savings to school boards and to the province, because it means that fewer teachers will be required to deliver the same number of courses. No doubt this is a driving force behind this particular piece of legislation. But will such an initial cost savings be worth the long-term costs that will result from moving ahead with the legislation?

Increased workloads for teachers mean there is less time for preparation of an individual course, resulting in potentially lower-quality course delivery and content. The teachers at the secondary school that my son presently attends work extremely hard to provide stimulating, comprehensive course content. The school has a strong academic history, and the dedicated work of our teachers

towards the quality of their programs ensures that our students maintain that high standard. Imposing additional demands on our teachers will not raise the quality of their work.

Teachers have generally been very supportive of the content and objectives of the new curriculum introduced at the secondary level. As a parent, I view this initiative by the provincial government as a good one. However, like all major changes, secondary school reform requires an extra effort on the part of those designated to implement it; in this case, the teachers. All teachers are being asked to learn the new content and develop the detailed lesson plans and resources needed to deliver the curriculum. This can only be accomplished through additional prep time, whether during or after school hours. But Bill 74 reduces the limited preparation time teachers presently have and, further, adds additional courses to their workload. If the province truly wants to see an improvement in the standards achieved by our students, it must provide the framework for effective delivery of the new curriculum. Bill 74 does not provide that framework.

Bill 74 includes a provision to reduce class sizes minimally. At the secondary level, this should mean that teachers would be dealing with fewer students and have more time for the individual. In fact, increasing the course load of teachers means they will be teaching more students and therefore will have less time for the individual.

The new secondary school curriculum places additional demands on students as well as on teachers. The first group of students to experience this new curriculum does not have the benefit of receiving the new elementary curriculum, which is intended to prepare them for the secondary changes. Consequently, these students need extra help from their teachers to be successful as the province moves ahead with its reforms. But their teachers will no longer have as much time to provide remedial help. Time that was previously used to help students, their prep time before and after school, will now be taken up preparing and teaching additional classes. Students will fall further behind and be less successful.

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I am particularly concerned about the time that teachers will have for students with special needs. I, in fact, have two children with learning disabilities, the first one entering high school this fall. These students regularly need additional help to be successful. Many of them, given the new curriculum, will also need a significant modification of that curriculum, and our teachers will not have the time to do that. They will be receiving less preparation time, and they are dealing with a far greater number of students who require modifications to the curriculum. Exactly where are these students going to receive the help they need to be successful under the province's new curriculum?

The dollars available to the Ottawa-Carleton District School Board to provide special services to these students outside the regular classroom have been drastic-

ally reduced since amalgamation and will be further reduced in the coming year. When special services are withdrawn, the responsibility of supporting exceptional students falls directly on the classroom or subject teacher. However, they will not be available to provide that support. Without the support, there will be increased behavioural problems and a higher dropout rate among the students who require that support. These are hardly characteristics of a better quality education system.

From a student's standpoint, the additional course load imposed on teachers under Bill 74 means that in a semestered system they could have as many as four teachers teaching an individual course. How does this improve educational quality? Each teacher might have to give 0.5 of a course in order to balance his or her workload across the two semesters. Where is the consistency for the student? Where is the in-depth knowledge of the overall program that teachers normally have to tie the pieces of the courses together? How will this make a student's educational experience better? Bill 74 focuses on increasing the demands on teachers without giving any thought to the student. Where is the provincial government's accountability for quality in this legislation?

My last concern around increasing the in-class time of teachers is a safety concern. At present in my son's high school, teachers must do on-call duty. That means that during one of their preparation periods, they must be available to fill in for an absent colleague, to monitor the cafeteria where students spend spare periods or to provide supervision in the hallways. In a semestered school like ours, teachers could well have no preparation time during one of their semesters under the new legislation, since they will now have to teach 3.5 courses in one semester and three in the other. In a four-period timetable, that means we will be facing a significant decrease in the adults available for supervisory duties and to ensure the safety of our students. This may seem like a small issue, but in today's environment it is a significant concern to parents and students alike.

This brings me to Bill 74's provisions around co-instructional time. Let's be honest: This legislation requires a group of professionals to work outside their contractual obligations and to do so for no pay. If the province believes that extracurricular activities are an essential part of the educational experience, then it must provide school boards with the dollars needed to pay teachers for these added duties and to incorporate the obligation to perform these duties in the collective agreements. It is totally inappropriate to legislate volunteerism. This measure will not ensure our students enjoy the benefits that extracurricular activities provide. It will merely ensure that these activities are offered. The quality of the activity and the enthusiasm of the person delivering that activity cannot be legislated, and those are the elements essential to making the activity worthwhile.

The government is using a big stick to solve a small problem. Why not simply enact legislation that says unions cannot control the participation of their members in non-contract activities? Mandating volunteerism is not

the route to go. As a parent, my immediate concern is that the province will turn next to legislating every parent's involvement on school councils or in the classroom. That would not improve the quality or number of school councils nor necessarily help out classroom teachers, but it would certainly alienate parents. Legislated extracurricular participation will unquestionably further alienate teachers.

Ontario is facing a huge shortage of teachers. It is a time when the provincial government should be doing everything in its power to make the working conditions of teachers attractive to existing professionals and to those who might be interested in this career. The quality of education in Ontario will not increase if we do not have enough teachers to meet our needs. Demoralized teachers will not provide quality learning experiences. Parents will look to private schools, where the government's autocratic rules will not apply, to ensure the quality of their children's education. Ontario will also have to deal with the many dropouts who could not keep up with the new curriculum and who could not receive the help they needed. Dropouts are not usually highly contributing members of society, and they represent added costs to our social and judicial systems.

For the sake of our students, I urge you to reconsider this legislation. Give our teachers the time they need to do a good job implementing the new curriculum, to respond to the needs of exceptional and regular students who need help outside the classroom and to ensure the safety of our students in school. Do not increase their in-class workload. And please, do not legislate volunteerism. What is given from the heart and of one's own free will is of far greater value and benefit than what is demanded without recognition. Thank you.

**The Chair:** Thank you, Ms Mason.

We will recess for lunch until 1 o'clock.

*The committee recessed from 1206 to 1303.*

**The Chair:** I call the meeting to order. Good afternoon, ladies and gentlemen. This is a continuation of the public hearing into Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience.

Just a reminder to some of you who may not have been here this morning: Individuals are given 10 minutes to speak and groups are given 15 minutes. I would just ask anyone who has a cellphone to please turn it off as they can be quite disruptive to people who are speaking.

RON HUNGERFORD

**The Chair:** The first speaker we have this afternoon is Mr Ron Hungerford.

**Mr Ron Hungerford:** Ms Mushinski and members of the committee, it's a privilege for me to be able to speak to you today and express my concerns surrounding the proposed legislation, Bill 74, which is currently before the Ontario Legislature.



I will begin by telling you that I'm proud to have been a teacher in the Ontario public education system for almost 30 years. My first six years were spent as a member of the teaching staff at a large, culturally diverse school in Toronto, namely East York Collegiate, and since 1976 I have been a member of the staff at Thousand Islands Secondary School in Brockville, save for one year when I was on a teaching exchange to Sydney, Australia. I have wanted to be a teacher since I was 12 years old, and although I will be eligible to retire in June 2001, I still have a passion for teaching. If Bill 74 becomes law, I believe that I can endure just about anything that it will present to me next year, but why should I have to? I want my final year as a teacher to be the best one in my teaching career for my students and my student athletes.

It is through the extracurricular programs which I have been involved in that I believe I have been able to teach some of the most meaningful lessons to my students. I have coached many sports over the years, including volleyball, hockey, wrestling and baseball, but the majority of my involvement has been in cross-country running and track and field.

A typical school year would see me conducting 100 practices of about an hour and a half each, plus taking athletes to 25 high school competitions, often leaving the school before 7 in the morning and not returning until midnight. In addition, I have convened many large competitions at the local, regional and provincial levels. Each year at my own school we have a large invitational track and field meet which attracts over 1,100 athletes from Ontario, Quebec and New York state. We've been doing this for 24 years.

I have also organized two overseas trips for my students, in 1990 to Belgium and in 1994 to Scotland. I am currently in the midst of organizing one final trip this fall, to North Carolina and Williamsburg, Virginia, for our runners. These trips are enriching educational, social and cultural experiences for the students and provide them with a lifetime of memories.

In the 1990s our school teams won three OFSAA cross-country team championships, and over 25 of our alumni have gone on to compete in university competitions in Canada and the United States.

What is most meaningful is not the races won or lost but rather the young people whose lives I have touched and who have touched my life. For instance, the young lady who was diagnosed with Hodgkin's disease in 1985, but who, with a combination of chemotherapy and a positive, competitive spirit, not only beat the disease but returned to run in her OAC year and subsequently graduated from university as a pharmacist. Or the young man who came into our school from grade 8 as a member of a gang and was headed for a life of crime. Four years later he had an OFSAA gold medal, had moved from a basic to a general level program and is currently studying in college. Or the young lady who arrived on my own doorstep at home as her mother neared death. She was from a dysfunctional family, to say the least. She is now

a university graduate, is married and has two children. Or the young man who persevered through countless injuries to have an outstanding high school running career, went on to become a Canadian champion and his university's athlete of the year. I was both proud and humbled to offer a toast at his wedding later on.

Not only did each of these students learn valuable lessons outside of the classroom, but each in his or her own way became excellent role models for their peers.

Now, I quote from Bill 74: "It is the exclusive function of the employer to determine how co-instructional activities will be provided." I coach student athletes because I want to do it, not because my employer tells me that I must do it, and it is for this reason that I know I have made a difference to many of their lives. Mr Harris has been quoted as saying that 99% of my colleagues share a similar commitment to extracurricular activities as I do, so one must conclude that this bill is designed for the 1%, to keep them in line. It seems to me that this is planning to use a bulldozer to move an anthill.

Bill 74 plans to place teachers in the classroom for more time during the day by reducing scheduled time for planning, preparation and evaluation. I have personal experience already of teaching under such conditions. In the 1998-99 school year I taught the entire first semester, from September to February, with no scheduled preparation periods. Since our school board was unable to arrive at a contract with the secondary school teachers, despite the fact that all other boards in Ontario had done so, I had the misfortune to have to teach four out of four periods every day for the entire semester, even after our contract had been ratified in early January.

### 1310

Let me outline briefly some of the ways in which this reduced the quality of education my students received that semester:

(1) They were given fewer tests and assignments because I had less time to prepare and mark them. I believe that formative evaluation is a valuable learning experience for students, but some of this was lost during that semester.

(2) Because I had 25% more students and 75 fewer minutes per day, I had less time to mark homework and consult with students on an individual basis.

(3) Our school, like others, stresses the importance of keeping the lines of communication open with parents. However, there was less time available to make telephone calls, write letters or for face-to-face meetings.

(4) Living and teaching in a small community means that I have the pleasure of teaching many of the daughters and sons of my friends and neighbours. During my four-out-of-four semester, a number of neighbourhood parents spoke to my wife and me about how their children knew that I was not the same teacher in the classroom and they knew that the working conditions prevented me from doing the best job for my students.

(5) In the second semester, when I was back on a normal teaching timetable, I found that the physical and emotional toll of semester one meant that I was unable to



coach or organize competitions for the remainder of the school year. I fear that had I attempted to get back up to speed as a coach, I would have ended up in hospital and not been in the classroom at all.

Bill 74 is proposing a similar increase in workload for all teachers, so that we will have fewer teachers teaching more students for a longer time each day. At the same time, students will spend no more time in the classroom and they will be taught by teachers who have less time to prepare their lessons. I fail to see how this will improve the quality of education.

Last week, I attended an open forum in Brockville about Bill 74. At that meeting, Mrs Linda Raby, who chairs our school council, spoke about the "mixed message" which our students are receiving from Bill 74. The new diploma requirements state that each student must perform 40 hours of voluntary service in their community in order to graduate. Now Bill 74 is telling the students that the teachers, who have served as role models when they have volunteered in the past, will be enlisted to supervise extracurriculars. I believe the term "compulsory volunteerism" is an oxymoron. Mrs Raby knows from her own two sons' experience that their teachers had no preparation period that particular semester. They weren't able to give extra help to students and had less time to help students to prepare for final exams.

At the same open forum, several of my colleagues had the opportunity to express their concerns to the parents in attendance. Ms Andrea Zuck, a second-year teacher at our school, is a dedicated young professional who wants to become a better teacher, and yet last year, when she had no free time during the school day, she had little time to consult with the senior staff member who served as her mentor. Ms Zuck continued by saying that in the second semester, when time was available to her and her mentor, she received invaluable assistance in planning lessons and preparing learning materials to meet the diverse needs and learning styles of her students. As a senior member of our faculty, I value the opportunities to work with young teachers like Andrea, because they continue to fuel my enthusiasm and provide me with a fresh new perspective on teaching.

Then Mr Richard Zeilstra, a teacher of 15 years, spoke. His subject area is auto technology, so he has many marketable skills for the private sector, but Mr Zeilstra wants to remain in teaching because he too has a passion for teaching and wants to have sufficient time to do his job properly. However, he is a dedicated family man who is not prepared to be on call for school business 24 hours a day, seven days a week.

In correspondence recently with one of my colleagues, Mr Gary Stewart, MPP for Peterborough, stated, "I am sure that a principal is not going to assign a teacher something to do at night or on weekends unless the teacher is involved in an extended school activity such as a school trip." Yet Bill 74 states that principals can assign duties to teachers and temporary teachers "(a) on school days and days during the school year that are not school

days; (b) during any part of any day during the school year; (c) on school premise and elsewhere."

**The Chair:** Could you wrap up, please, Mr Hungerford.

**Mr Hungerford:** I'd like to conclude with some of the comments about the reality of Bill 74. First of all, it pits trustees versus principals versus teachers, since each group must comply with the vision of the Ontario public education system according to Mike Harris. If any person in any of these groups is perceived to be in non-compliance, they will be fined and/or dismissed, and the trustees will be barred from public office for five years. So compliance will be downloaded by the school board to the teachers.

Bill 74 is a direct attack on democracy. It ignores the Labour Relations Act and the Employment Standards Act, and sets a dangerous precedent by giving the Minister of Education power to investigate complaints from anyone in the community, to make unilateral decisions about school board management, and to take over elected boards. She would be able to dismiss trustees, principals and teachers subject to no other law or court of appeal. This undermines the basic democratic rights which my father, my father-in-law, my grandfather and uncles fought to uphold 60 years ago.

**The Chair:** Thank you, Mr Hungerford. Your time is up.

#### OTTAWA-CARLETON ASSEMBLY OF SCHOOL COUNCILS

**The Chair:** The next presenters are Betty Tait, Cynthia Pohran and Ken Slemko, representing the Ottawa-Carleton Assembly of School Councils. Good afternoon.

**Ms Betty Tait:** Thank you for the opportunity to allow us to present our views as a group of parents from the Ottawa-Carleton District School Board. I'd like to introduce Cynthia Pohran, who is the chair of our assembly, and Ken Slemko, who is the chair of the secondary schools committee.

**Ms Cynthia Pohran:** We appreciate being here this afternoon and hope that you'll give us our full 15 minutes of time.

The Ottawa-Carleton Assembly of School Councils is an umbrella organization for school councils within the Ottawa-Carleton District School Board. Our constitutional mandate is to seek an education of the highest quality for each child according to his or her needs. Our board represents 150 public schools, serving approximately 80,000 students in the province of Ontario. We have an active membership of 130 school council members.

At our general meeting last month, our members discussed Bill 74 and overwhelmingly approved a motion to direct our executive members to address their concerns to the government and all regional elected representatives. We have communicated our position to the Premier, the provincial ministers and local elected



officials. You will be provided with a copy of that position paper today.

As I said, we're very pleased to be invited to speak to you. I'll let Ken continue.

**Mr Ken Slemko:** As parents, we should start by saying we support many of the changes that have been made to improve the quality of education in Ontario. Increasing the number of actual instructional days during the school year, trying to put a cap on increasing class sizes and modernizing the curricula are all good things.

We would also welcome a further effort on the part of the government, to quote from Bill 74, "to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience." However, our assembly members do not believe that Bill 74, in its present form, will achieve these purposes.

Several weeks ago I attended the Whitton award ceremonies, which were originally set up by Mayor Jim Watson to honor the volunteer activities of individuals in the downtown area of Ottawa. One of this year's winners was Trudy Bradley, a teacher at Lisgar Collegiate, who was recognized for the enormous amount of time she has put in over the years to support the music program in her school. Earlier this year, the Prime Minister also presented her with an award for excellence in teaching.

When looking at Bill 74, we should ask ourselves, will it mean that we have more or fewer teachers like Trudy Bradley in the future? We believe the answer is that we will have fewer, as many professionals exit Ontario's education system to find positions where they feel they are being given more flexibility and respect. You simply cannot legislate the dedication and professional commitment that many teachers bring to their job.

The OCASC secondary schools committee, which I chair, includes representatives from the 27 high schools in the Ottawa-Carleton District School Board. We meet each month to discuss the common issues in our local schools and to determine if there are any activities which we, as parents, can do to improve the situation.

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Three of the biggest concerns I have heard over the last year are the following: First is safety and security within our schools. Attention to this issue has intensified in recent months with the violence witnessed in our own school board. Second is the quality of the academic programs. Parents are concerned not only with what happens in the classroom, they are also concerned with the support outside of the classroom, particularly the help teachers can provide, often on a one-to-one basis, to help our children meet the demands, particularly the demands the new curriculum is placing on students. Third is the morale of the teachers. The new curriculum is taking its toll on teachers, and it's certainly putting more demands on them across the board, in our view.

At our last meeting, we examined Bill 74 in the context of these concerns. Our conclusions are supported by the entire assembly, which constitutes 130 school

council members. By putting more workload on our teachers, Bill 74 will not, in our view, improve the safety of our schools. The reason for that is there will be fewer teachers in the schools. They will have less time for supervisory duties and to help resolve discipline problems within the school.

It's too simplistic to say we could replace teachers with security guards or other personnel. We do not want our schools to become US-style military compounds. We want individuals who can help to resolve conflicts and deal with individual student problems. In our opinion, the teacher is one of the best mediators for conflict resolution within the school, because relationships of mutual understanding and respect are nurtured in the classroom.

Will Bill 74 improve the quality of the academic programs in our schools? If teachers have less time to spend outside the classroom to meet with students having problems with their courses, it is hard to see how the quality will improve. This is a particular concern, as I mentioned before, with the new curriculum, where, as parents, we see the need for more outside help, not less.

Finally, what will Bill 74 do for the morale of the teachers? The vast majority of teachers are individuals, as I think you've heard here, trying to do the best for our children. They are not lazy, and in our experience, few are wide-eyed radicals. In fact, most teachers reluctantly comply with the orders or direction of federation leaders to work to rule, ie, withdraw volunteer activities during contract negotiations. Our school council members believe that, rather than mandating volunteer activities, the government should amend the bill to restrict federations from ordering or directing their members to withdraw volunteer activities that are part of an approved annual plan.

On a personal note, last year as the vice-chair of the Ontario Parent Council and two years previously as the chair of the education policies committee, I worked hard to make sure the changes that were being delivered were aimed at improving the quality of our schools, but ultimately the quality of education in Ontario depends on the willingness and dedication of professional teachers who must deliver the programs. Something will be lost if we tell them that the time they freely gave as part of their professional responsibilities is now mandated.

Bill 74 will also have the effect of radicalizing many of those teachers who may not always agree with the positions of the federation leadership. For instance, it is applying the same principle to elementary teachers for whom, as far as I can see, doing extracurricular work has never been an issue.

We recommend, therefore, that you amend Bill 74 to specify that high school teachers teach 6.17 out of eight classes per week. We put in the extra 0.17 because we believe the teacher advisory program should be part of the required work of high school teachers. The quid pro quo is that secondary school teacher federations agree that they will no longer withdraw support for extracurricular activities as a bargaining tool. As parents, we believe support for extracurricular activities is part of the

professional responsibilities of teachers and that they must accept this.

In conclusion, we sincerely believe that, in its present form, Bill 74 will not achieve its objective of improving the quality of education in Ontario. It will likely also increase safety concerns and create more problems with teachers than it sets out to solve. We hope the government will seriously consider other options to bring stability to the education system and encourage our teachers to act as professionals in doing their best to improve the quality of education in Ontario.

**The Chair:** Thank you, Mr Slemko. That's your presentation?

**Mr Slemko:** Yes.

**The Chair:** We have about four minutes for questions. We'll start with Mr Gilchrist.

**Mr Steve Gilchrist (Scarborough East):** Thank you for coming before us today and making your presentation. I thought it was a very balanced review of the legislation as you see it.

I'm struck by one of the lines in your written handout here, and if I may quote it: "However, our members have been long concerned about the withdrawal of these services"—these being co-instructional—"during contract negotiations and would support the government in its effort to ensure that teacher federations do not employ work-to-rule campaigns."

You elaborated a little bit about the challenge, if I can call it that, that could be thrown out. On a personal level, I suspect all of my colleagues from all parties have had visits from local teachers and the teachers' federation. In fact, when the gentleman from my area visited and suggested that his teachers accepted the 6.67—that wasn't the big issue but co-instructional was—I offered to him precisely the challenge you've just brought to us here: that if the teachers' federation is prepared to state categorically that a Durham-type situation would find little acceptance among the ranks of other teachers, that there would be peer pressure brought to bear, then do whatever they thought is an appropriate response to deal with the problem if this legislation is not the right solution. I must share with you, I've heard nothing back. At a personal level, he agreed with me that it would be appropriate for the government to do something if there was no offer coming forward.

If it's fair, what would you do in our shoes if in fact by the time this bill comes back to the House—everyone's read it. Everyone in the teachers' federation has long since had an opportunity to digest this bill, to digest the situation in Durham and other boards. What would you do in our shoes if in fact there is no alternative forthcoming to protect students, such as the people in Durham region?

**Mr Slemko:** I'm surprised that the person would come in and say, "We accept the 6.67," because in all the discussions I've had with the local union people, the federation people and so forth on this, the crux of the matter seems to be much more that they've never resolved the fact that they're moving from six to some

other amount, like 6.67. That seems to have always been more the crux. My suggestion is that the government blink at this time, that it go back—I've just run through a whole bunch of things. I really believe that 6.0 or 6.17, in our view, actually gives you a better quality of education than 6.67 by basically increasing the amount of time. You'd offer that, and the federations have to come back to you and say, "We therefore withdraw any further use of the work-to-rule type of campaign."

I thought I had an agreement, but it turns out that once you go to the leadership of the federation, in fact you can't get them to put that in the agreement. I think that's what has to be on the table here. To me, that's the quid pro quo. The government goes back to, in our case, 6.17 and they agree once and for all that this isn't part of what they're going to do.

Parents are extremely frustrated when they get into a work-to-rule campaign. It's like you're looking at the teachers and you're expecting that part of their job is doing this extracurricular and they're not doing it. I think somewhere an agreement has to be reached. What really bothers me the most is that there's such a separation. Why can't we talk about it and come to some kind of agreement? That's what I would see as the kind of cut-off that might work.

**Mr Gilchrist:** I appreciate it.

**Ms Pohran:** If I could just add to that, Mr Gilchrist, we feel that Bill 74 goes much too far in mandating co-instructional or extracurricular activities, but, again, our focus here is on quality education. In examining the bill, though we have many concerns about many aspects of the bill, we focus again on how this bill will provide fewer teachers in the classroom who will have to spread their time among more students, and we think that reduces the quality of education.

**Mr Gilchrist:** Thank you. We think the smaller class size will in fact have more teachers in the school, but we'll have to agree to disagree on that one.

*Interjection.*

**The Chair:** We really don't have the time. You've probably got about 15 seconds, so—

**Ms Pohran:** I'll take it. We'll take 15 seconds.

**The Chair:** Thank you very much for coming in this afternoon.

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DAVID SPENCER  
DIVINA YEE

**The Chair:** The next presenters are Divina Yee and David Spencer.

**Mr David Spencer:** Good afternoon and thank you for allowing us the opportunity to speak to you today on Bill 74 and give you our views as teachers. I'd like to begin by introducing myself. My name is David Spencer and I'll be reading from the blue sheet, if you're wondering which page to look at.

I am a teacher who, I think, does a relatively good job. I am effective at what I do. My students respect me and



come back after first year university and thank me for the great background they received in my OAC classes. I am well liked by my students and peers. To me, teaching is what I always wanted to do and I have enjoyed doing so since I began nine years ago.

I take great offense at Bill 74 for many reasons. I'll just go through one of them here which is most pressing to me, but first I'll give you a small job description.

I teach senior level mathematics at St Lawrence high school. In doing so, I prepare young minds to enter university and become the leading scientists, engineers and high-technology professionals who are, as we know, in great demand, especially in this area. In addition to teaching, I, like all other teachers, have taken on many other duties without being asked to do so because, like other teachers, I am in this job to make our school and education in general work, regardless of what roadblocks are put in my way.

Some of my additional duties include maintaining a network of 154 computers in our school, 11 printers, two servers, kilometres of network cable, as well as many other gadgets that break down in the school. I do this job for free because it is important to me that the students, who rely heavily on computers, benefit from the exposure to the tools of high technology. In my mind, this job alone would command a hefty salary in many other organizations.

I do this job during my preparation period. This means that I prepare my lessons, do my marking, prepare remedial work and plan my courses at home during my own time. So what does losing my preparation period next year mean for our school? I suppose it means that I will do my marking, prepare remedial work, plan my courses and administer the school network on my own time. I don't think so. I can't think of any other organization that expects their network support staff to come in after working a full day and make repairs to the computers on their own time for free. Can you?

I also perform monthly health and safety inspections of the school, as well as a comprehensive annual inspection using a substantial checklist that I myself prepared for use in every school in the entire Upper Canada District School Board.

I go to monthly meetings of all different flavours: staff meetings, parent-teacher nights, health and safety meetings etc. I counsel students who need someone to talk to about school life, life at home, relationships etc. I tutor students who have difficulty or have missed classes, whether or not they are my own students. I decided on my own to do these additional jobs in order to help out at my school and to help out students in general.

One reason I object to Bill 74 is that it effectively makes each and every one of these duties mandatory. I object to Bill 74 because it says to me that I cannot be trusted enough to take on these responsibilities without someone forcing me to do so. I entered teaching because it was a profession that was respected both by adults in general and by myself. I was always very respectful towards teachers when I was a student. I saw them as

responsible adults who went out of their way to make life in school go smoothly. They were to be respected because of all of the time away from their families that they gave freely, without being asked to do so, so that life in school was pleasant for all parties involved.

The introduction of Bill 74 chips away at the respect that society in general has for teachers and teaching. It is as though we suddenly can't be trusted to make the right decision for the rest of the school. It is as if to say we're not mature enough to take on these extra duties without being forced to do so, under threat of firing and other forms of discipline. I have far more respect for teachers and for myself than that. I can't sit by and watch my profession be dragged through the mud by ever-changing legislation, rules that take what little control we had over our workday and reduce us to assembly-line workers who do things because we are threatened with disciplinary action if we do not comply.

And why should I? I have enough education to know that I can change careers. I have only been teaching for nine years. I look around at the workforce in Ottawa and Kanata and see high-tech jobs opening up for people just like me. Maybe it's time that teachers compare their working conditions to those of professionals in the high-technology sector, or for that matter to teachers in other countries. As I see it, legislation like Bill 74 is going to drive many people like myself—dynamic, hard-working, ever-learning people—out of public education. Who will be left to pick up the pieces and provide your children and grandchildren with a top-notch education? I honestly have no idea.

Will I remain a teacher? This is a question that I have been asking myself a lot lately. You can just ask my wife.

I'll pass the mike to Divina.

**Ms Divina Yee:** Ladies and gentlemen of the standing committee of the Ontario Legislature on justice and social policy, listen to your voice. Before I begin today, I will ask you to just close your eyes, take a minute and listen. Listen to that voice which is yours in your heart. We as a society today often miss out on so many very important things because we only listen to the Muzak which is playing in the elevator instead of paying attention to who is actually standing right next to us in that elevator. Listen to that voice which tells you to listen to the stories and experiences of others. Sometimes the simplest things said in a conversation will be the most important.

I stand before you today not as a politician but as a common person to ask you to listen to your own voice. Hear what it has to say to you. Hear the voices of the people here today.

My name is Divina Yee. I was born, raised and presently live in eastern Ontario. I am a product of a strong educational system and, to their credit, very good teachers. My parents came to this country with very little and they have worked very hard to instill in me the importance of education and of contributing back to the community.

I am a music and drama teacher at St Lawrence high school in Cornwall, Ontario. I am a proud member of the most honourable and most important profession in the world. In many countries the word "teacher" is respected, because passing life on to the next generation is the most important job in the whole world.

I believe that, like religious life, teaching is a vocation. I didn't choose it; it chose me. Yes, most people can teach what's written on the page, but the difference is seen in whether they are teaching just the black notes on a page or teaching the music that's written from the heart.

When I first started teaching three and a half years ago, I believed I was going into a field that had a good, supportive environment, conducive to helping me work and learn with students; a work environment where, yes, students could learn and teachers could teach. Idealistically, I believed that my energy and my enthusiasm could carry me for many years to come.

I must say right now, at this moment, that never in my life have I ever felt so demoralized and degraded as I do now. Some people do not think that what we do is important. This government does not think that what we as teachers do is important. Bill 74 is more proof of this fact. The unprecedented loss of civil rights and liberties with regard to the decision-making process at local levels and optional extracurricular activities is unfair, unsafe and undemocratic. Government ads have directly worked against me in my classroom and have bashed myself and other teachers to no end in the eyes of parents, other people and students.

It is not the educational system and teachers that have let me down; it is this Ontario government. Faith, trust and professionalism are bridges that this government has burned down. This Bill 74 leaves us with no voice. By nature, I am generally a quiet person—really. Willing to work hard, I am young and passionate about what I do in my life. I cannot sit complacently while this government tries, through bullying tactics, to quiet and divide the voices of the people. I speak as a tired teacher who should not be tired. I speak as a young teacher who should not be burnt out. I speak for myself and not my big union bosses—really. I speak for the fact that increasing our teaching workload will not only take away time from my life but also from the number of co-instructional activities that I will be able to do next year. Quantity is the name of the game here, not quality.

How does this government expect us to do a good job when there are fewer teachers teaching more students? I speak for the many hours that I spend with my students already in play rehearsals, at lunch-hour improv practices, at 7:30 am and after-school choir practices, setting up equipment for assemblies and concerts, driving students to Interact Rotary conferences on the weekend, chaperoning at school dances, rehearsing vocalists for music festivals, staging cabaret night, selling chocolate bars and candles, chaperoning on band and drama trips, attending parent-teacher interviews, typing out grade 9 report cards, the list goes on—all outside of my classroom.

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As a teacher, I expect to spend this time out of class. It is an investment of my time in my class and in my students.

**The Chair:** You have about one minute.

**Ms Yee:** I do it because it is an important and valuable part not only of my students' lives but of my school life as well. To be slapped in the face with the fact that I may be disciplined now if I do not do any of this greatly disturbs me. It is an insult to my intelligence and to my commitment as a teacher and as a member of society.

Bill 74 leaves us with no voice. Please, listen to our voices now. Bill 74 has seriously made me re-evaluate my reasons for staying in this profession. Why should I continue to just stand here and take this? I already have several colleagues who are leaving to move on to teach in other parts of this country and around the world. If the Ontario government's goal is to further discourage and alienate its teachers, especially its young teachers, it has succeeded in doing so very well.

If this legislation passes, I can only speak for myself in saying that I will be reconsidering my decision to teach in this province and moving towards giving back to this province what it has given to me: an empty voice. I ask you to defeat Bill 74, because that is what your heart is telling you to do. That is what your voice is telling you to do. Please, listen to your voice. Thank you.

**The Chair:** Thank you, Ms Yee. Unfortunately, we don't have time for questions.

#### ELEMENTARY TEACHERS' FEDERATION OF ONTARIO, UPPER CANADA LOCAL

**The Chair:** The next speaker is Mr Randy Frith, president of the Elementary Teachers' Federation of Ontario, Upper Canada Local. While Mr Frith is coming up, I realize that some of you have travelled fair distances and may have missed lunch, so I welcome anyone who wishes to partake of the food to please share in the sandwiches that are on the table at the side.

Mr Frith, good afternoon.

**Mr Randy Frith:** Good afternoon to you. I did travel a fair distance and haven't had lunch yet and will partake after this—on Highway 416, which is a great improvement.

**The Chair:** Make sure that you save a sandwich for Mr Frith, OK?

**Mr Frith:** Thank you for the opportunity to make this presentation on behalf of the elementary teachers in Upper Canada. My name, as you said, is Randy Frith and I am president of the ETFO locally. Compared to a couple of the previous speakers, I am at the end of my career and in 15 days will be retiring. I speak as a union leader within our board, but I also speak as a very experienced teacher and someone who has dedicated his life to this career.

I represent approximately 1,300 teachers, as well as 350 occasional teachers. We teach in 94 work sites



spread over a very large geographic area. The Upper Canada District School Board is an amalgamation of four former boards: Prescott and Russell; Stormont, Dundas and Glengarry; Leeds and Grenville; and Lanark.

I will address this afternoon only the main elements in this proposed bill that directly impact—the way I see it, and I think my members too—elementary students and their teachers. Those elements are, obviously, the mandatory extracurricular activities, unilateral alterations to collective agreements, policing school boards and the new compliance provisions, and reduction in the class-size aggregates.

Before I begin—and I think this is gained over experience—I'll state clearly and emphatically that I have yet to see a piece of legislation where my members are as unified in their opposition. Perhaps parents in our communities—and we have had opportunity to see many and speak to many lately—if they truly understand the bill, and I say the same for teachers, who are just becoming educated with this bill, they don't see how this in any way improves the quality of education in our schools.

I want to mention the last thing, the reduction in the class-size aggregates. I do thank the government for doing that. It was a little late to implement it in our system, because we were in the middle of staffing. It did lead to 20 full-time-equivalent jobs. That's good for our system and even better for our students. I thank the ministry for that. The timing, as I said, made it a little difficult to implement, but we're making it happen because it will benefit us all.

First, mandatory extracurricular activities: Elementary teachers in Upper Canada, as well as in the rest of the province I'm sure, devote thousands of hours each year to organizing and running extracurricular activities. They do it voluntarily. They give of their own time before school, at lunch, after school, in the evenings, weekends. They do not add up the number of hours—this isn't a tally sheet—that they spend with student athletes, aspiring musicians, actors or science fair participants. The provisions in Bill 74, with its extremely broad scope and definition of “co-instructional activities,” are totally unnecessary. These activities which enrich our students' lives occur already. Why make them mandatory?

We, as teachers, volunteer our time and energy because we want to and because we recognize the value of these extracurricular activities. As I said, I'm approaching the end of my career. Tomorrow I'm probably culminating something I've been involved in for many years, a track-and-field meet down in the Brockville area. I've done it because I love to. If you were there—and I invite every one of you—you would see a great collaboration of parents, teachers, retired teachers, people who want to be there. They will not be there in the future if it is made mandatory. If they are there physically, they won't be there in spirit.

Good teachers love what they do, whether it's in or out of the classroom. The enthusiasm and expertise which foster a student's passion for a sport or a hobby

cannot and should not be imposed. All of us live in a society that respects and appreciates volunteerism. Making it mandatory is demeaning and will not serve the best interests of children, their parents or their communities.

In our schools and schools around this province, but I know definitely in Upper Canada, parents, volunteers, teachers and principals collaborate in providing for those extracurricular activities. We plan these. Together they sort out all the additional responsibilities that are involved on a school-to-school basis, not at a board level, just individual schools. We have a lot of small schools, and they do it.

At different stages of their careers, teachers participate to varying levels in extracurricular activities. It's something we work out. Teachers who have young families don't do as much sometimes. That's not a negative; that's a reality of the stages we're at. We get the job done. Teachers respect these individual circumstances, as I mentioned. This bill has serious potential to create hardship by forcing people who at particular times in their careers aren't able to do as much as others. That has never been a problem in the past.

Bill 74, the way I see it, places no restrictions on the number of extracurricular hours teachers must work or the conditions under which this work must be performed. This legislation has the potential to arbitrarily lengthen the working day of teachers. Since in most of my career that was close to 24 hours anyway, I'm not sure how we can lengthen it. This should be of concern to everyone in the province as it infringes, as many have mentioned, on an individual's human rights. No employer should be given this kind of power. This bill sets a troubling precedent for all workers in Ontario.

Bill 74 assumes total control over all the non-teaching aspects of a teacher's working life and grants no obvious protections that such powers will not be abused. It is a bill that is distasteful, perceived by my members as mean-spirited and punitive. Teachers, not just their unions, have become the enemy of the government. What a sad commentary—I find it a truly sad commentary; I mean that—on how we have evolved as a profession. I'm leaving a profession that I used to be proud of, and still am, but it's certainly not viewed in the same light as it used to be.

The extracurricular certainly has got a good part of the airtime, but the second part that concerns me just as much is the unilateral alterations to collective agreements. As it reads now, the bill specifically sanctions assignments which would violate the provisions of collective agreements. In contravention of international law, it removes the right of teachers to bargain with respect to fundamental aspects of their working lives. Bill 74 also provides school boards with the extraordinary power to alter terms and conditions of employment and existing rights, duties and privileges as a school board sees fit. In essence, this legislation kills the statutory freeze period that those involved in collective bargaining recognize and know.

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The amendments to the Education Act and the Labour Relations Act thus will escalate bargaining strife. It will force teacher bargaining groups to speed up the negotiation process to ensure themselves of a legal strike position to redress damages that can be done unilaterally by employer initiatives. There is the potential next September, and I sure hope it isn't true, for disruption of schools in this province. The negotiation process is generally slow, with provisions for mediation and conciliation as insightful pauses for both sides to reflect on their submissions. This is important to recognize. Our members have told us, and I'm sure the public and boards have told you, the negotiation process takes a long time, but that's good. People reach wise collective agreements because of the steps that are there. Outside people are brought in, mediators, conciliators. That's good. It makes you reflect back on it. This process, by eliminating that statutory freeze, just forces bargaining groups to get into a strike position, and that's not good for anybody. This proposed change to the existing negotiation steps will only force escalation of contractual impasses.

I don't want to spend much time on the second last thing, policing school boards and the new compliance provisions. The provisions of Bill 74 significantly expand the power, obviously, of the provincial government to investigate and take over the operations of school boards. These new powers continue the growing interference with the autonomy of locally elected school boards. The proposed legislation lists six areas in which the minister is empowered to investigate. However, there is no assurance that I see within this bill that these investigations will be conducted by an impartial individual or even in a fair manner. This just reinforces the increasing invasion of politicians, not educators, into managing those parts of education that have traditionally been handled locally.

In conclusion, the way it's perceived, at least in the educational sector, the sole purpose of this bill is control, not accountability. It is the proverbial smokescreen for what we see as further and continued damaging financial cuts to education. Teacher morale continues to be eroded by the atmosphere and reality of this enforced servitude. In a time when we are facing a teacher shortage, this government sours the educational environment for incoming teachers.

I will say very honestly—and I've been to faculties of ed this year; I've gone for years, trying to encourage candidates and get them to come to Upper Canada—it is a really tough sell now to convince myself to encourage people to continue in this profession. That's not said as a union leader. That's just the reality now; it really is. It's hard to get our teachers to feel wanted.

Thus, and I guess you're not surprised, my members clearly state to this committee that they recommend to this Legislature that Bill 74 be withdrawn. I thank you for the opportunity to present.

**The Chair:** We have about four minutes. I'm going to allow Mr McGuinty the full four minutes, because we did allow the government side the last time.

**Mr McGuinty:** Thank you very much, Mr Frith, for taking the time to join us here today. I only regret that the committee didn't have more time to allow more individuals to make presentations.

It seems to me that one of the ways in which Bill 74 is fatally flawed lies in the fact that it is wilfully blind to the fundamental principles of human motivation. I haven't been a coach, but I have had the opportunity to see my four teenage kids coached at a variety of different levels at school. One of the things you can see is that if coaches want to get 110% out of our kids, out of our athletes, out of the players on a team, somewhat like the way we want to get 110% out of Ontario's teachers, they don't criticize and undermine confidence. They don't berate. They build up confidence, they respect the athlete, and they inspire them.

When it comes to me, what I want from teachers for my kids is the 100%, of course, which we're entitled to legally, but I want more than that; I want 110%. How do we get 110%? How do we get 110% out of any group of employees anywhere? How do we get 110% out of the members playing on a team? We respect them and we inspire them. It's something that has to come internally rather than be imposed externally by means of legal obligations. That's the way I see it. What do you say?

**Mr Frith:** You get more than 110% out of the teachers in Upper Canada right now. This bill is not going to increase that; it's going to deplete the morale. We do it because we love it. I'm there tomorrow coaching, and I've been there for 33 years, because I love it. I recognize the benefits of it to my students. Teachers, if they're honest, will say because it's fun. We do it because it's part of our career. I made it part of my career and I would miss it, and I would miss doing it because someone told me to do it. You're right; teachers want to do these things, and they do them, but they don't need to be told to do them. It's just part of our nature. That's why we got into teaching.

**Mr McGuinty:** It's the kind of thing that we should be very reluctant collectively to tinker with. I think it was Mark Twain who said that it was important not to allow school to interfere with our education. By that I think he meant in part at least that there are some wonderful educational-type experiences that are to be enjoyed outside the classroom.

I spend a lot of time on the road. When I talk to my kids by telephone at night, they don't talk to me about math, they don't talk to me about science or English or French; they talk to me about what happened that day at the soccer game, what happened at water polo. Those are the things that are very important to me as a parent and I know are very important to my children. They are the kinds of things that I'm imploring the government to recognize and to avoid tinkering with. I have seen no concrete evidence which would lead me to believe that mandating volunteerism in our schools is better than nurturing volunteerism—nothing.

**Mr Frith:** I totally agree with you. You've put it perfectly. We would like to continue doing these things



as volunteers, the way we've always done it, without the controls, because they happen because we love doing it and we see the benefits it brings to our students. It doesn't need to be told to us. Elementary teachers have done it forever.

**The Chair:** Thank you very much, Mr Frith.

I would hope that my reminder to turn off the cellphones will have to be the last one this afternoon.

1400

#### NATIONAL CAPITAL SECONDARY SCHOOL ATHLETIC ASSOCIATION

**The Chair:** The next speaker is Sue Fleming, executive director of the National Capital Secondary School Athletic Association. Good afternoon.

**Ms Sue Fleming:** Thank you, Madam Chair. You don't know it, but you share a picture with me on my mantelpiece as you presented me, when you were Minister of Citizenship, Culture and Recreation, with an award from this government for my volunteer participation in amateur sport.

I'd like to start by saying that from the ministry's own presentation of Bill 74, it was explained that Bill 74, to distinguish itself from Bill 160, proposes to accomplish three things: to further define or designate teaching time for secondary teachers, to define and mandate co-instructional activities for all teachers, and to define the powers of the minister with respect to compliance with Bill 74. I wish to discuss with this committee two of these purposes, the mandating of co-instructional activities and the defining of teaching time.

First, the issue of mandatory, compulsory, enforced, however you refer to it, participation by teachers in non-instructional, extracurricular activities: These are defined, by your explanation, as including activities such as sports, arts and cultural activities, parent-teacher and pupil-teacher interviews, letters of support for pupils, staff meetings, school functions etc.

The schools in Ottawa-Carleton—and I think we are typical of schools in the province—are active in all of the above. We are active in them because students, parents and teachers believe in their value. This past year, again a typical one, the 50 public and separate English and French high schools in this area participated in 27 sports and played over 6,000 games. There were numerous musicals, drama and improv productions. We are home to the Canadian champion Reach for the Top team. We have science fairs, produce yearbooks and school newspapers, take students on field trips to broaden their experiences, write letters to help students get jobs or into colleges or universities, organize and run dances, commencement exercises, charity fundraisers and so on, just like all of the schools in this province.

Teachers volunteer to lead these activities because they believe that, in addition to the course work of the mandatory curriculum, students should have available a variety of other experiences that they can choose or volunteer to participate in, and teachers do this as a part

of their large, sharing family in each school, picking and choosing what to participate in according to their interest, helping out as the overall school program needs them, trading off with one another when demands such as our changing course load or family responsibilities make it necessary. As their participation, like the students', is voluntary, they are able to give and take to keep this overall school program working.

However, as previously stated, the government sees this method as somehow broken or, at the very least, lacking. Instead of trying to promote or encourage the structure, say, by providing increased funding to further these opportunities for public participation, this government wants to wield more control. You are trying to enact a law which states that it is the duty of teachers to participate in these co-instructional activities. To someone who observes these activities from the outside, this may seem to be the panacea for past labour actions or interruptions that have occurred in Ontario, but I say that is a very naive outlook.

If Bill 74 passes as written, you will have your designated sports coaches, your band conductors, your student council and yearbook advisers, but what happens next? Who will convene your leagues and administer your athletic associations? Who will organize the city-wide science fairs? Who will coordinate the all-school newspaper challenge? You have forgotten about the needed mandatory volunteers at this level.

Now that all of these co-instructional activities will occur, where does the money come from to run them? Currently schools are able to determine themselves what extracurricular activities they will run, with one of the deciding factors being what they can afford. Equipment, league fees, drama productions, music instruments and transportation all need money. Does it not follow that if these activities must occur, they must be available to all and hence they must be supported financially by the government? This bill also places principals in an unnecessary adversarial role with their staff and gives many parents the false impression that they can dictate their child's school's extracurricular program, with the sky being the limit.

Changing this part of school life from voluntary to mandatory will bring about a major attitudinal change. Teachers who now look forward to participation because it involves a personal interest or ability will now enjoy their activity less and they will value it less. We will be asking what exactly or what precisely is expected of us, and not feel guilty if we do no more than that. We will watch as fellow teachers are assigned duties for which they have little knowledge or interest. We will be concerned about safety. Perhaps of greatest concern, the most important lesson of extracurriculars, showing students by example that giving selflessly of your time is honourable, will be lost.

But I believe that mandatory co-instructional involvement is all a smokescreen. I believe that the reason this issue has seen the light of day is because the Minister of Education feels that many schools in her home riding

have little or no extracurricular activity going on in them. To that I reply: Minister, you have come up with the wrong solution to this situation because you have misidentified the cause. The teachers of Durham want to participate in their schools' extracurricular programs. However, they are teaching an additional class already, and as a result, their working conditions do not permit them the needed time to coach, to produce the musical, to organize that fundraiser. The extra class, or 0.67 of a class, that Bill 74 assigns each teacher means less non-class time available to them. This extra time also means more preparation, more student contact and more marking to do in this reduced amount of non-class time.

In addition, your new curriculum has come at a very rapid pace. Teachers are frequently ill-prepared as textbooks and resources arrive late. This has already dramatically increased existing teacher workloads. They would like to do their classroom job well, but your process in relation to secondary school reform has frequently caused a scramble to catch up.

The addition of an extra class will also mean that teachers will have less time to contribute to their school community. There will be fewer bodies present in the school, fewer people available to supervise the halls, the library, and fewer people available to take that on-call for the teacher who is attending the now mandatory basketball game or music presentation.

The last two years have seen a very large number of retirees, and more will go this year and next. We all welcome the new, eager faces to the profession, but if veteran teachers are struggling with your classroom curriculum, the rookies need even more assistance. They need advice, guidance and mentoring, another area that requires time.

To conclude, the volunteer commitment of teachers to enrich their students' lives has always been one of the great values of formal education in Ontario. It has included an enviable extracurricular system at a minimal cost to taxpayers. Schools traditionally get from teachers on a volunteer basis much more than what can be mandated. Activities work well if those involved believe in their value. Forced participation does not result in this belief.

Agreements were reached in mid-April in London and some Toronto-area boards that followed the directions of Bill 160 while still allowing time for extracurricular activities to continue with volunteer teacher involvement and support. The ministry and this government should be asking themselves: "Where do we want teachers to spend their non-classroom time? In preparing or evaluating credit courses? In familiarizing themselves with a new curriculum? In contributing to their school atmosphere, ensuring a safe school and a well-run school? In mentoring new teachers? In participation with extracurricular activities?"

I think you'll agree that we would like involvement in all of these areas, and this requires time. If you don't have enough time to accomplish all of the tasks on your list, you must prioritize.

This government clearly has a vision of where it wants Ontario education to go and you have committed our schools to a new curriculum. The greatest resource that you have and the group you should be partnering yourself with are the teachers. Please allow them the time, as well as the resources, to achieve your vision. Thank you.

**The Chair:** Thank you, Ms Fleming.

Mr Marchese, if I say you've got three minutes, will you take two?

**Mr Marchese:** The others took four.

Sue, thank you for your presentation. You confirm that it simply isn't possible that so many of you who have these opinions could be wrong, and they so right.

My second point is, I find it very depressing that they can pass a law on perceived political gain and worry about consequences later. That's my depression over much of what they do, but particularly with this bill.

The third point I want to get to—to get to your comment—is that thousands of people are retiring. They're opting to leave because of the 85 factor, which goes on until next year. We're seeing a lot of people leave, and they're at the upper scale of salaries, so that means that they hire young teachers at the bottom end of the scale, and the province saves a whole lot of money. That money doesn't go back to the boards of education; it goes back to the government as a saving. They never talk about those savings, but people are leaving in droves.

The final point is this: Mr Gilchrist says, "But we're reducing class size." It's true they've announced funding to reduce the average class size, but isn't it true and obvious that as you increase through the redefinition of the instructional time to 6.67 periods, what it means in every board across Ontario is that there will be fewer teachers—fewer teachers, meaning some will have to be let go? Many will have to be let go on boards, so there are great savings in that regard. First of all, many teachers will be fired, because the ones remaining are doing more, and the other point is that it will give those who remain a hell of a lot more stress that they have to cope with in terms of the additional time, and you will have less classroom time to be able to help those students who really need it.

**Ms Fleming:** That's correct.

**Mr Marchese:** Please comment on all of those things again, so that Steve and others can hear it.

**Ms Fleming:** I didn't know whether to be amused or dismayed at the back when I heard Mr Gilchrist say that there would be more teachers in. I would say, either he cannot say that with a straight face or he needs a remedial math class. The reduction of one student—

**Mr Gilchrist:** I wouldn't quite say that math is my best subject, but thank you for the comments.

**Mr Marchese:** Then he knows what he's talking about.

**Ms Fleming:** That's right. The numbers just do not add up to insist that there would be more bodies present in the school with the instigation of reducing slightly the class average sizes and, at the same time, increasing teachers' loads from six to 6.67.



You are correct in saying that the older teachers probably cost almost twice as much as the new ones coming in. There is a huge savings being reaped by this government, and we don't know where that money has gone. It certainly has not come back to education.

**Mr Marchese:** Thank you, Sue. Good luck.

**The Chair:** Thank you very much.

1410

### SHELLY CORLYON

**The Chair:** The next speaker is Shelly Corlyon. Did I pronounce that correctly?

**Ms Shelly Corlyon:** That is correct.

Honourable Ms Mushinski, standing committee members, I thank you for inviting me to share my personal experiences.

My name is Shelly Corlyon and I come before you today as a concerned parent, a school council chair, a teacher and a volunteer. There are three main issues I would like to discuss with you today: the concern I have as a parent having my children's teachers being responsible for an extra 25 to 30 students daily; the worry I have as a school council chair being given the power to mandate what volunteer activities my children's teachers will be forced to do; and the demoralization I feel as a teacher who does much and is being told that I don't do enough. As I will clearly demonstrate, Bill 74 must be defeated if we want what is best for the students in Ontario.

Bill 74 will make it law that teachers in secondary schools teach an average of at least 6.67 courses. This worries me on two fronts. First, as a secondary teacher, I cannot imagine teaching another 25 to 30 students. How can this be better for my students and my children who are also students? Sure, it would mean extra contact time with students but, unfortunately, not with the students I currently teach. Instead of dividing my time between the 75 to 90 students whom I teach daily and the 20 students with whom I meet weekly in my TAP groups, you, the government of Ontario, with Bill 74, are asking me to meet daily with another 25 to 30 students.

As a parent, I am not so naive as to think that having my children's teachers being responsible for more students in one day can be beneficial to my son's or my daughter's education. The only thing 6.67 courses per year versus six will do is allow Mike Harris to make further funding cuts to education. At least two teachers in my school have already been told there will be no jobs for them next year. Lisa Cholowski, one such teacher, will speak with you later today.

Do we believe that a dairy farmer has it easy because he works only two hours a day, one in the morning and one at night, milking cows? Do we think that members of provincial Parliament only spend a few hours per week actually working—the hours in the House? Of course not. So why do we believe teachers are working only when in front of the class? For every hour in the class, I spend at least one more preparing for the class and marking

students' work. In addition, I work with students in many voluntary activities, as I will discuss later.

As a teacher, I can offer no more. Just ask my husband, Steve, the number of times he rolls over in bed at 4:30 or 5 in the morning to discover that I have slipped quietly to my desk. Why do I do this? My family is so precious to me. We keep emphasizing the importance of family values and morals. I get up early or work after my children are in bed as much as I can so that I can spend some quality time with my children, helping them grow into kind, caring individuals. There are many times, however, when I must sit in front of that computer as my children say, "Please, Mommy, can't you just play with me for awhile?" I thank the Lord for my wonderful husband who loves to play with our children and is patient with me as I spend hours every night preparing for my classes.

If children are our future, we must protect them by not increasing a teacher's workload. If Bill 74 passes and teachers are mandated by law to teach 6.67 courses, I know that my students'—your children's—education will suffer. Teaching three out of four classes every semester is a huge responsibility. I give my heart and my soul to my students, helping to foster in them a passion for learning, and I do this through my love for teaching.

Second, the use of the word "average" in reference to teaching time is ludicrous. Let's draw an analogy to the private sector. Many hard-working people work 40 hours per week and are paid an annual salary. Although it is in their collective agreement, Mike Harris and the current government may pass a law to change the 40 hours per week to an average of 45 hours per week. Does it seem possible that one individual will be forced to work 50 hours per week while his co-worker, doing the same job, will be allowed to work 40 hours per week and earn the same salary? This sounds discriminatory and unethical to me.

Bill 74, in my opinion, is no different. If a government can override teachers' contracts at will, what is the value of any contract? Bill 74, if passed into law, will pit teacher against teacher, encouraging them to make sidebar deals with their principals. The resentment felt by some teachers as others are allowed a lower teacher workload cannot possibly foster a positive learning environment for our children. As a parent, I am very concerned by this inequality.

Now I will share with you my concerns as the school council chair of St Catherine Catholic school. Bill 74 states clearly that the principal shall consult the school council at least once in each school year respecting the school plan providing for co-instructional activities. I am a parent volunteer on my children's Catholic school council. I choose to be involved with the school council as a means of keeping abreast of what is taking place in my children's learning environment. I worry that the principal is being mandated, in conjunction with the members of the school council—me—to assign duties relating to co-instructional activities to the teachers at my children's school. I have no idea what extracurricular activities the teachers are interested in and capable of

pursuing, nor do I feel qualified in determining what activities should take place.

Can you imagine what will happen to a school where the parents strongly believe that there are too many bands or sports teams, costing the school too much money? What if the parents on a school council are only concerned about the money? As a school council chair, I am very worried about the power Bill 74 gives me to mandate the co-curricular activities that will take place in my children's school. Teachers best know what they love to do and can only be expected to give 100% to a club or team they desire to advise or coach.

Finally, I would like to explore, as a teacher, the problem with Bill 74 making voluntary activities mandatory. I volunteer to be the site administrator of computers in my school. I am responsible for over 150 computers, installing software, troubleshooting, administering log-ins, hours and hours of work a week. Why? Computers are my passion and they are needed by the students to meet curriculum expectations.

I volunteer to create, maintain and update my school's home page because it helps keep lines of communication open between students, parents and the school. It allows students to know what clubs and teams exist, encouraging them to participate in school life.

Furthermore, I am an academic adviser to the student council at the school. I help the executive organize dances, intramurals, student elections, canned food drives, spirit days, to name just a few activities. Is the responsibility huge? Sure it is, but so are the rewards.

What else do I volunteer to do? I am the computer gaming club adviser, I coach the junior and senior computer programming teams, I am in charge of makeup in our school plays, I am a member of the Upper Canada Computer Advisory Committee, I am a SIT trainer at the board level for our new curriculum, I am a member of the graduation committee, I write letters of recommendation for students when they ask me to, and I meet with students daily to help them with their work. Does it sound like I do a lot? Maybe, but I am a typical teacher at my school doing what I love most: helping my students grow to be better citizens. Can somebody else do what I do? Most definitely. But will they do it as well as I do if they are forced to do it? Definitely not.

North Dundas, my high school, has over 24 clubs and 27 teams—hear this—24 clubs and 27 teams: OSAID, drama, chess, bands, basketball, cheerleading, track, cross country—just to name a few, all being offered by teachers volunteering their time to make our school a great place to be. How demoralizing it is to me and to my fellow teachers to be told that we don't volunteer enough and that the government must pass a law to force us to do what we obviously already do because we love it. It may be teacher volunteer work being mandated today. Will we, the citizens of Ontario, be forced to volunteer in our communities next?

The cover page of Bill 74 states that it is "An Act ... to increase education quality and ... to enhance students' school experience." The government's new curriculum improves the quality of education, and I applaud the

government's efforts with respect to the much-needed changes to the curriculum. The volunteer activities which currently are offered by the teachers in our schools—they enhance students' school experience. Bill 74 will not. It must be defeated and I urge you, the members of provincial Parliament, to vote no to Bill 74.

**The Chair:** Thank you, Ms Corlyon. You took your full 10 minutes.

1420

TOM NEPHIN  
BETSY SMITH

**The Chair:** The next speakers are Mr Tom Nephin and Betsy Smith.

**Mr Kennedy:** On a point of order, Madam Chair: I understand that the minister may be making an announcement about government amendments to this bill. I'm wondering if the parliamentary secretary would like to share that with the committee as a whole in these hearings so we'd have the benefit of that information.

**Mr Tascona:** I don't know what you're talking about, Mr Kennedy. We're in the midst of hearings. You know the timetable we're dealing with for amendments. I imagine your party is considering it now. Your leader is here if he wants to make an announcement.

**The Chair:** I really don't want us to get into a debate about this this afternoon. We're here to hear public delegations.

Mr Nephin and Ms Smith, please proceed. You have 10 minutes.

**Mr Tom Nephin:** Good afternoon, and thank you for the invitation to appear before the committee regarding Bill 74. I am here today to ask you to withdraw Bill 74 and to stop the constant assault on the teaching profession.

My name is Tom Nephin. I am a parent of two. I am also the department head of business and computer studies at Carleton Place High School. I am here today with Betsy Smith, the chair of the school council, and she will share my speaking time.

Let me start by telling you that I've been a teacher since 1976. During my 24 years as a professional educator in the province of Ontario, I have taught for three different school boards, two community colleges, served on and chaired the Eastern Ontario Business Education Advisory Committee, served as a member of the Business Education Directors Association of Eastern Ontario, was the accounting contest chair for the Ontario Business Education Association, wrote curriculum and courseware, conducted professional development training sessions for teachers and worked for the faculty of education as a mentor for student teachers.

I worked for the Ministry of Education helping to evaluate curriculum, courseware and examination content in the area of business education. I've served on a number of committees for the ministry, the school board and at the school level. I've been a guest speaker for community groups, including the chamber of commerce. I moderated an AT&T global learning network and I've



been involved in community programs for kids. I have fundraised thousands of dollars for schools. I've been a strong advocate for public education. I have taught hundreds of kids and am now teaching their kids. I've been around for a long time, and I've been involved. In addition to that I've coached both academic and athletic teams over my career.

Over the past 24 years I've seen a lot of changes. Teachers, as education partners, welcomed those changes. For the most part, the changes in the past were positive changes. The changes were there to improve the quality of education and the lives of students and give the students the skills they needed for professional success. In fact many of my students are now involved in the high-tech sector, and I am proud that I was part of their success.

Bill 74, like Bill 160, the bill that created the crisis in education, is not about positive change, nor is it about improving the quality of education or the accountability of any of the educational partners, other than Mike Harris. Bill 74 is yet another attempt by the Harris government to destabilize the public education system, to violate the collective rights of teachers, to demoralize the teaching profession, to sever the positive relationships between each of the educational partners, to remove any local control and accountability regarding education, and to move the centralized decision-making to Queen's Park.

The changes proposed in Bill 74, like Bill 160, and Bill 104 before that, the Fewer Schools Board Act, are like changing your underwear but having to pull on a dirty pair. The public might not be able to smell the cuts or identify the crisis in the education system yet, but, like the situation in Walkerton, those situations and cuts will have a long-term, profound, and negative impact on the lives of students and the future economic prosperity of Ontario.

Bill 74, the bill that will have school boards fire teachers, have fewer teachers teach more students and give students less opportunity to access teachers, is not about quality education. How can any of the following be good for quality education? Reducing the average class size from 22:1 to 21:1 is a joke. The classes at my school average nearly 24 to 30. Reducing the class aggregate is not about moving one student from one class. In fact, the computer class that I had, Introduction to Information Technology, had 24 students in it. That computer class had students with a range of abilities and experiences: the gifted kids, the kids with learning disabilities magnified by hyperactivity, kids with no computers at home, and kids with only one parent at home. In addition to that, I had to deal with the kids who had failed the course from the year before. Many of the kids will fall through the cracks as a result of Bill 74.

Another point: Increasing the workloads of the teachers in my school, who are tired and are under tremendous stress, will not improve the quality of education either. Some of those teachers have had to take time off. They were under professional care as a result of the stress they had to endure during their teaching last

year. In fact, some of them are taking time off now and in the next school year.

Requiring teachers to teach and evaluate 24 to 30 more kids at the same time as implementing the new curriculum and providing guidance under the teacher adviser program will ensure that students get less service from teachers who have an increased stress level. A student's learning environment is a teacher's working environment. Both of those have to be positive and they're common.

Creating an environment where senior teachers are retiring as fast as they can get out, while at the same time new teachers are frustrated and demoralized, and are seeking alternative employment in foreign schools, as well as outside of the teaching profession, will not lead to quality education and will further reduce the number and quality of teachers in the province.

Giving the Harris government unprecedented powers to control trustees and to control the lives of and override the contracts of teachers in the province demonstrates clearly a lack of accountability.

Mr Harris, the brave new world is about building relationships, about being fair and trusting, about investing in kids; it's not about control, doublespeak, the unprecedented power to override contracts, to impose from Queen's park or to provoke the people who are the backbone of education in Ontario.

Again I ask you on this committee to use all your powers of persuasion to persuade Mr Harris to withdraw the bill and invest in students. They are our future.

**Ms Betsy Smith:** My name is Betsy Smith. I'm the mother of four sons and for the last few years have had the privilege of being chair of the school council of Carleton Place High School. Over the years I've participated in the formation of two co-operative nursery schools, three parent-teacher organizations in elementary schools and the formation of our school council. The focus of all of this has been to support and improve educational opportunities and experiences for our children. Yet now I find myself witness to the brick-by-brick destruction of all that I have given my adult life to enrich.

I feel as if I have spent the last two and a half years filling and piling sandbags in an attempt to protect our school and our students, to ensure that my youngest son will have the fine educational experience his older brothers had. With Bill 74, the barricade will be breached and it will take more than sandbags to salvage his final three years of high school.

Contrary to the government's claims, increased instructional time will hurt, not help, my son. As the number of students each teacher will teach increases, the time spent with each student becomes proportionately smaller.

Mandated co-curricular duties will ensure that what has been done as a result of the interests, skills, inspiration and creativity of our students and staff now will be performed with reluctance and a heavy heart. In fact, a mandated co-curricular program raises an interesting question. If teachers must provide this because it is

an essential part of any high school education, then surely students should be required to participate.

With amalgamation of our school boards under Bill 104, the Fewer School Boards Act, access to our trustees and their first-hand familiarity with our schools was severely compromised. With Bill 74, the trustees might as well pack it in. They will no longer have even nominal control over our schools.

Much can be said about the attack on teachers' bargaining rights and the potential and totally unnecessary labour strife that passage of Bill 74 will precipitate. But by far the worst effect of this bill will be the loss of teachers from the Ontario education system. Our most able young people are not going to choose teaching as a career and our young teachers are going to look elsewhere for jobs.

At the same time, our finest and most creative senior teachers are going to opt for early retirement or move into second careers. The loss of these teachers will also result in the loss of the mentorship that goes on now between experienced and new teachers.

This is not fantasy, this is reality. I can tell you who these people are at Carleton Place High School.

Last night at our school council meeting, unanimously and by secret ballot, our council asked me to convey to this committee its demands that this bill be withdrawn.

One final word from my 16-year-old son. He has asked me to give you a copy of George Orwell's *Animal Farm*. He asks that you read this before moving on to the passage of Bill 74 and that this government look for itself in the characters of Napoleon and Squealer.

**The Chair:** Thank you, Ms Smith. There's no time for questions, unfortunately.

1430

FRANK KINSELLA

**The Chair:** The next speaker is Frank Kinsella.

**Mr Frank Kinsella:** Thank you for this opportunity. I am Frank Kinsella, a parent of five children, the youngest being Anthony, who is nine and in grade 4. I am chairperson of the parent advisory committee for Linklater/MacDonald Public School in Gananoque.

Our family has experienced four educational systems in Ontario: in northeastern Ontario at Matheson, outside of Timmins; in northwestern Ontario at Fort Francis; and in eastern Ontario at Picton and Gananoque.

In the late 1970s, while in Fort Francis, a local bank manager, a self-employed person and I coached the high school football team. None of us worked at Fort Francis High School. The closest team was 110 miles away in Kenora and the farthest in Red Lake at 220 miles. Fort Francis High School paid all the expenses for the football program. If you know the cost of equipment, you'll know how much that represents. The travel budget for the sports programs in the school was more than \$26,000.

Why all this personal detail? Hopefully this will establish credibility in your minds and cause you to think about this statement: The schools, school boards and provincial government cannot afford mandatory extra-

curricular or co-instructional duties. The cost will be too great, resulting in many extracurricular activities being canceled due to the lack of funding.

In the past two years our parent council has raised over \$16,000 for our elementary school. This year we have spent \$4,000 for sports equipment so our children will have something to do on the playgrounds and in phys ed; \$1,400 for our primary children to attend a play in Kingston and our grades 7 and 8 trip to Ottawa, our nation's capital; and \$5,000 for upgrading of our older computers in the school. The total monies given this school year are \$10,400, nearly a third of what our school has in its budget, which is \$34,000 for school supplies and services.

As a parent council, we agree that we will not financially support any expenditure of funds raised for items or programs that fall under the mandate of the province or school board, ie, textbooks, school supplies etc. If co-instructional duties are mandated by the province, we will not financially support these. Either you provide sufficient funding for these events to occur or they will fail for lack of resources.

Let me explain why this bold statement is being made. In the past school year, Anthony has participated in the following school activities: soccer, soccer/baseball, track and field and a variety of club activities. The cost to us, parents, is zero. People have come to expect almost no charge for school-sponsored activities. You know the argument: "I pay taxes. Why should I have to pay for these?"

While Anthony was doing these activities at school, he also participated in recreational programs offered by the municipality: minor hockey, \$200; power skating, \$85; karate, \$350 a year; basketball, \$35; minor baseball, \$35; basketball camp, \$140. In addition there are guitar lessons, which add up to \$672, and drama camp for \$80. The cost to us, the parents, for community sponsored events: \$1,597 per year.

Parents object to schools charging for extracurricular or co-instructional activities, yet are willing to pay for municipally offered recreational programs. Strange, is it not?

Is it possible to integrate the recreational programs offered by the municipalities and the schools? There would be greater coordination of effort and less duplication. Parents, if we are typical, seem willing to pay for municipally sponsored programs yet balk at paying for school programs.

What has changed in the education of Anthony that did not happen for his older sister and brothers? They did fundraising while in high school if the band or class went on a trip. In the last two years—I wish I had brought Anthony with me because I think he would be a great visual aid—Anthony knows what fundraising is. Remember, he is nine and in grade 4. This year he has raised: for magazine subscriptions, \$340; Christmas gifts, \$160; M and M fundraising, \$120—all school-sponsored fundraising—multiple sclerosis readathon, \$220; Jump Rope for Heart, \$120, for a total of \$960 of which \$620



is for his school because of underfunding by the province.

One of Anthony's older brothers raises more than \$5,000 per year for his high school hockey team. The costs of running a bare-minimum hockey program are ice rental for three exhibition and nine home games at \$130, which gives \$1,560; referees, \$840; ice rental for practices, team sweaters etc, all give you a cost of \$7,100.

Revenue: You can expect about \$2,000 in funds from the school, and if you charge the 18 players \$250 apiece, that gives you \$4,500, for a total of \$6,500. There's a deficit of \$600 and that means there has to be fundraising.

There are more than 540 senior high school hockey teams in Ontario, with over 9,000 students playing. The minimum expenditure for high school hockey in this province is \$7,100 times 540 or \$3.834 million. That's just one event.

To be competitive with the private schools, Upper Canada and St Andrews etc, and have his team go to the All-Ontario finals four of the past five years, his hockey program costs more than \$13,000 per year, resulting in his organizing fundraising events to generate \$5,000. If mandated to run the hockey program, he will do it, but questions whether he would commit to the time and energy the fundraising requires. I want you to know that in their work to rule he continued to coach his hockey team, because he had a commitment to the students.

Some of his hockey players are also in the minor hockey system in the Toronto area where he coaches. The parents pay more than \$4,000 per year to have their sons play on a rep team. His students pay \$250.

Section 265 of the act is amended to read, "(4) The principal shall consult the school council at least once in each school year respecting the school plan providing for co-instructional activities."

Our message to the school council will be: Offer those activities that can be paid for from your school budget while not taking away the needed monies for instructional resources and textbooks. The prime purpose of our education system is to give our children foundation skills in literacy, numeracy and computer literacy. In later grades, extend these foundation skills by enhancing the acquisition of broader knowledge.

In closing, approve only those amendments that the school, school boards and the provincial government will provide resources for, because this parent and many I have consulted will not be doing fundraising for any mandatory programs dictated by the province. Second, I have not talked about this, but nobody with any common sense will run for the position of trustee with the changes proposed in Bill 74.

**The Chair:** Thank you, Mr Kinsella.

1440

JOHN McEWEN  
ARIANE CARRIERE

**The Chair:** The next speakers will be John McEwen and Ariane Carriere. Please proceed.

**Mr John McEwen:** My name is John McEwen. I'm a teacher of science, environmental science and physics. I thank the committee for this opportunity to appear. I have brought with me my friend Ariane Carriere. She is an elementary school teacher in the English Catholic system and she will make a few observations at the end of my presentation.

I have taught for 32 years. I love being with kids, seeing them develop, helping them through a difficult concept and watching as that light goes on and new understanding is reached. The rewards of my job are often found in the mall or on the street when a former student comes and tell me, "You made a difference."

It's satisfying, but it's also exceedingly intense. That intensity is expressed in the quotation I have provided from Teachers in Canada: Their Work and Quality of Life. Teachers and those who know teachers will testify to the veracity of that quote. I find that in recent years, with the reductions in teaching and support staff in our school, my colleagues and I have experienced ever-increasing workloads. New clerical and administrative tasks imposed by curriculum changes add to this, as does planning and implementing the new curriculum itself, frankly in a milieu of absent resources.

Time is my most precious, oversubscribed commodity. There is no time to research, to reflect and to plan. Statistics Canada finds that teachers as a group experience higher levels of unpaid overtime than any other employee group in the country. My experience and that of my colleagues confirms this.

Bill 74 is the last straw. Its proponents expect me to accept the revocation of some pretty fundamental rights: the removal of any influence over my own working life; an extraordinary increase in teaching load including at least, but not limited to, one extra class and no preparation time for that semester and new teacher advisory program duties; the assignment of any other duties the principal sees fit, be they clerical, custodial, administrative, fundraising or those formerly voluntary activities the minister likes to refer to; being at the principal's beck and call 24 hours a day, seven days a week, Sundays and holidays included; and the imposition of a system of arbitrary discipline without any form of due process, formal review or fair treatment standard.

These are unprecedented, intolerable impositions. I will not accept them. As much as I love what I do, I will no longer do it, at least not in this province.

I will be found in a classroom, but it will be one in upstate New York. In that classroom in upstate New York, I will have a better pupil-teacher ratio, superior teaching conditions, more money and I'll commute the same distance from my home in Long Sault.

I will not be alone. The current teacher shortage in the United States is estimated at 300,000. Disaffected Ontario teachers, people with good training and high levels of ability, should find offers of employment quite easily. Eastern Ontario teachers, as you have already heard, have another outlet: Ontario's booming high-tech industries.

As a citizen, I also object to the compliance powers of the minister. It seems to me that she will be Parliament, crown, judge, jury and executioner. We can't accept that in a democracy. I'm sorry, it's just not on.

Yes, I worry about what will become of the students we will leave behind. But no one should have to teach where they are not valued or respected, and no one should have to surrender their fundamental rights to gain permission to teach.

I have appended to this paper several pieces of information that might be helpful, and I would like to very briefly cover them. First is a New York Times article on the great efforts and financial expense that states are going to to secure teachers, and I draw the attention of the committee to the final quotation from Governor Davis of California. I wonder if we will ever have a Premier of Ontario who will say this.

I would also point you to the second appendix, which has to do with teachers' salaries and my calculation that we are at the bottom of the range when compared with the United States. I would point you to my calculation of pupil-teacher ratios. There is no jurisdiction in the United States that has a pupil-teacher ratio as high as the one our new funding model predicts.

I know that what I have just said may be difficult for some folks to hear, and I appreciate your consideration as I spoke those words.

**Ms Ariane Carriere:** My name is Ariane Carriere. I teach grade 5 at Sacred Heart in Cornwall. I have 27 students, and that's the smallest class in the upstairs hall where the 5 to 8 classes are situated.

Last week we had our spring concert. The theme was "jungle safari."

By the way, I have nothing written; I'm sorry. This was a last-minute thing, so you're going to have to simply listen, as most of the students need to do in the classroom.

Also, I wanted to let you know that today is denim day at our school and that's why I'm dressed this way, because I was teaching this morning. The message on my T-shirt, "For the Birds," is for the environmental awareness of my students and it doesn't necessarily reflect my opinion of these hearings.

Last week we had our spring concert. As I said, the theme was "jungle safari." The teachers decided that they were going to get together and do something at the very end, because students appreciate seeing their teachers doing something, if they've been practising for a long time, and they really wonder what the teachers can get into. We decided we were going to use the Harry Belafonte song Day-O, where we have to do the counting of bananas. Someone made bananas for every single one of the teachers—full, life-sized bananas. When the music started, we all came out on the stage and we were doing our dance, and at the end, when we finished, we had a standing ovation.

We reflected about it the day after. The student MC who introduced us said, "Do you want to see the teachers making fools of themselves?" and of course every single

person in that particular auditorium cheered. We had a rousing cheer at the beginning and we had a rousing cheer at the end. When we talked about it the following day, we talked about how much fun we actually had doing it. Then somebody said: "You know what? When somebody tells me next year that I have to do this, I am not going to make a fool of myself. I am not going to do this at all. I will not participate in a teacher number like that. I'll do what I have to do for the concert, if that's what I am told to do, but that's as far as I'm going to go."

I've been in this business for 33 years now and I'll survive for another year. After that, I'm gone. I'm out of here as fast as I can. But it breaks my heart when I hear my son, who has been teaching for two years, come home and tell me: "Mom, I've put my name on the Web page. I want to see about a job elsewhere because I do not want to stay here under these conditions." That's something, as a mother, that's very difficult to swallow. As a teacher, one more year, well, I can do that, even if people tell me what I have to do, but as a mother, I find it very difficult, and I urge you to turn down Bill 74.

**The Chair:** You've concluded your remarks?

**Mr McEwen:** We have.

**The Chair:** We have about two minutes for a question from the government side.

**Mr Tascona:** I appreciate your presentation. The information provided with respect to the United States is interesting, but you didn't provide any information with respect to PTR for the rest of Canada. Did you have any information on that?

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**Mr McEwen:** The problem is that the Americans do a much better job of collecting data than we do. I do occasionally get PTR data from the other provinces. I am aware, in talking with colleagues from Alberta and British Columbia, that those who teach six out of eight—and most of them do—have class sizes of about our size at present. The only other information I have is from the OECD, which reports that Canada as a whole is tied with Korea in having the highest pupil-teacher ratios in the developed world. So a comparison with another Canadian province would not be a particularly helpful one.

**The Chair:** Thank you, Mr McEwen.

DANNY THOMAS

**The Chair:** The next speaker is Danny Thomas. Good afternoon, Mr Thomas.

**Mr Danny Thomas:** First, I'd like to thank you for inviting me here. My name is Danny Thomas. I'm a taxpayer, I'm a parent and I'm a high school teacher. I've been teaching for 11 years in the Upper Canada District School Board, Rockland District High School.

I am here to express some major concerns about Bill 74 and how it impacts the school environment. My children are small. I am quite concerned about the impact that this bill will have on their education, should I choose to send them to public schools. I might consider otherwise if the bill goes through.



I have some serious concerns in areas such as the extra teaching time that my children's future teachers will have to do in any given semester, and that in courses like math where remedial help is quite often needed, my children will not get remedial help because the teacher might not have any prep time that semester or any period within that semester. How will teachers be expected to teach four periods out of four, whether for a full semester or a half-semester, and prepare for classes, correct assignments and tests, and even participate in extracurricular activities during the day?

When I look back on the 1999-2000 school year, I see the demands placed on students and teachers by the hasty implementation of the new curriculum, which has caused a crisis in grade 9 classrooms. Next year, with the new grade 10 curriculum, and some teachers doing four over four and preparing the new material and correcting and coaching extracurricular activities, it's starting to feel like we are moving backwards, not forwards.

I like to think that we are moving ahead and that the ever-increasing demands of a rapidly changing, rapidly progressing society require that more careful attention be given to our students to prepare them for the world beyond high school. There will not be enough time in a working day to deliver quality education and provide activities that make for an environment in our schools that is both intellectually stimulating as well as socially proactive. It isn't going to happen. This bill will do great harm to school spirit at the student, parent and staff levels.

During the first semester of the 1998-99 school year, there were strike actions against school boards for imposing seven over eight classes, which required some teachers to teach four over four. Although most boards settled with their teachers some time in the fall of 1998, we weren't so lucky. As a result, approximately 40% of my school's teachers taught four periods, with no prep time, for the whole first semester, right up until the end of January 1999. They had 10 minutes between classes, and a lunch break. These teachers—I was there—were on the verge of burnout. Many of them were hanging on only by the hope that, for example, when October 1, 1998, rolled around, hopefully there would be an agreement by the end of October. November 1 rolled around—no agreement. They're still doing four over four. They held on to the hope that: "Well, some of the other boards have settled. Maybe this will only drag on until the end of November," and so on and so on. They wound up doing four over four the whole first semester.

These teachers, I might add, were not doing extracurricular activities that semester, just four over four. I recall some teachers complaining that they didn't have time between 8:30 and lunch to go to the washroom. They didn't have time to go to the washroom from the end of lunch hour until the end of the afternoon classes. Why? Because they stayed behind, during their 10 minutes' travel between the periods in the morning and the afternoon, to help students who weren't getting any help any other time—10 minutes.

Staff morale and school spirit reached an all-time low that semester. By the time the semester had ended, the damage, I thought, was irreparable, and here we are, a year and a half later, and our school is still feeling the damage of that semester.

I do not know how it will be possible to teach with no prep time and coach and supervise extracurricular activities, especially when the spirit of volunteering has been ripped out of our schools by a bill that now empowers the provincial government to order teachers—or at least order the boards, and then principals to order teachers—to do extracurricular activities, order teachers to volunteer to build a better school community. There's something that doesn't make sense about that. I consider myself not just a teacher but a member of my school community. Schools are like microcosms of your communities. You work within your community, and you volunteer your own time to contribute to maintaining an active spirit and environment in your community. After all, you live there. Imagine there came a day when your community government was in the process of passing legislation that empowered it to order you to be active in your community, outside your job. Imagine someone coming to your door with an order for you to coach this sport or supervise this charity activity or that, and upon your refusal, it could impact on your job. How would this build community spirit? How will Bill 74 improve public education?

I have heard Premier Harris say that he appreciates the hard work that dedicated teachers do for their schools. I also often hear that teachers know what is best for education, just like doctors know what is best for medicine. We are at the front lines, in the trenches, so to speak. A few weeks ago, when we were polled by secret ballot on whether or not we favoured the Education Accountability Act, my school's teachers voted unanimously against Bill 74—zero for, 32 against. Then I discovered that province-wide the vote was 99.4% against the bill. So the public high school teachers in Ontario are voting 99.4% against a bill. How could 99.4% be wrong about what this bill will do to our schools and our classrooms and to our school communities?

I must admit that I am completely baffled by the lack of response I have received from my government on this bill. I read in the paper that the government is gearing up for an ad war. Even newspaper columnists who have supported this government's policies in the past have written that this time things have gone too far. How, in a time of unprecedented economic growth—and I'm paraphrasing the Premier; Ontario has one of the fastest economic growth rates in the western world, and you'll correct me if I'm wrong—can education be going in the direction of funding cuts and workload increases that will result in the laying off of teachers and a lower quality of education? To me, it doesn't make sense. This bill does not make sense. Unless Mr Harris gives me an even greater tax cut, to allow for me to afford to send my children to private schools, I'm not looking forward to the next few years, when I have to enroll my kids in



public schools. I'm a firm believer in public schools. My belief is starting to waver. This bill is wrong. It doesn't make any sense. It makes no common sense.

**The Chair:** Thank you, Mr Thomas. You took your full 10 minutes.

#### ROBERT STEINMAN

**The Chair:** The next speaker is Mr Robert Steinman.

**Mr Robert Steinman:** I'd like to thank you for asking me here to speak today.

Esteemed members of the committee, it would take much longer than the 10 minutes I am allotted to point out the countless undemocratic elements of this bill. Therefore, I have decided to spend my time speaking from the heart about what I know best.

1500

I am a high school drama teacher at Crestwood Secondary School in Peterborough. I have brought something to show you. It is a gift to me from the cast of my most recent school production. It is a small statuette of a rather adorable bear clinging to the edge of a craggy rock. Accompanying it was this beautiful card with my cast on the cover. Inside is the message they composed:

"Mr Steinman,

"Every time you look at this gift, labelled 'Persistence,' know that we are grateful for yours. Your skill as a director, your respect and dedication as a teacher, and your encouragement as a friend enabled us to reach a height we didn't think possible. You reached inside of us and brought out our best, and together we reached the peak of the mountain.

"With heartfelt gratitude from the cast of The Diary of Anne Frank."

I offer these gifts as my prime credentials in speaking to you today. It is my hope that they give you a glimpse of what this experience has meant to these students and to me.

As a drama teacher, I have become an expert on extracurricular activities. A full-length school play involves well over 100 hours of rehearsal time alone. This is after countless hours I and a host of other dedicated teachers have spent selecting the right script, researching the time period, sewing elaborate costumes and handling the myriad of other production jobs. My commitment alone amounted to somewhere in the order of 300 to 350 total hours above my regular school day. It meant giving up countless weekends, evenings and most of my March break building sets, hunting down costumes and props, borrowing equipment, and the list goes on. It is a truly daunting task.

I do it because I know I am giving these students an experience of a lifetime, not only in the magic we call theatre, but in the value of commitment and perseverance. It is an experience they will recall years from now when most of the thoughts of what they learned in school have long faded from their memories.

My commitment comes from my heart, from a love of theatre and the power of a play like this one. What makes

it worth all those endless hours, all those sleepless nights when it seems like nothing will ever come together, is a reward like this gift, more valuable to me than any monetary compensation.

I am not alone. The teaching profession has a long and proud history of this kind of commitment. This has always been at the heart of my profession. It is this very heart which this government seems most bent on destroying.

Two years ago, when we went back to work without a contract, I was one of those unlucky teachers who were assigned to teach four classes a day. Classroom drama is a very active subject. It involves supervising several groups rehearsing at once with no time to catch your breath during the class. My time is devoted to encouraging, reviewing criteria, evaluating participation, previewing performances, keeping focus on the task at hand while meanwhile answering a constant barrage of questions. After teaching four 76-minute drama classes a day, with a four-minute break in between, I was physically and mentally exhausted. I had hours worth of marking and preparation to fill my evenings and weekends. Where, I ask you, would I find the 300 hours it would take me to direct a play?

Under the current system, I am free to decide when I have the time and energy to mount such a major undertaking. Extracurricular activities have always been coordinated between administrators and their staff in a spirit of mutual respect. Many factors may enter into this equation, creating a situation where teachers contribute at various levels, depending on the ebb and flow of their personal lives. A teacher who is in the midst of raising young children may not be able to commit as much time as a young single person. Teachers have always been allowed to assess their ability to give when and where they have been able, in open consultation with their administrators. What will become of this balance when teachers are forced to undertake their "fair share"?

Extracurricular activities are not currently funded by the Ministry of Education. In fact, much of the money comes from teacher-initiated fundraising. If extracurricular activities become mandated and forced upon unwilling participants, how will they be funded? By the ministry? Will teachers also be forced to raise the money to fund them or will this cost be passed on to already overburdened parents as user fees? Will well-meaning, compassionate principals feel pressured to disclose a teacher's personal and private crisis to justify what may appear as favouritism in an extracurricular load? Will some administrators use unfair extracurricular loads as punishment?

Good principals have always been educational mentors, promoted through the teaching ranks for their qualities of leadership and fairness, earning the respect and co-operation of their staff. They allow viewpoints to be shared openly with the common goal of creating the best learning atmosphere possible. Placing them in an adversarial position, by forcing them to administer extracurricular activities on an exhausted teaching staff,



will erode the spirit of co-operation upon which this system is based. With legislation this wrought with logistical error and absence of foresight, the educational crisis John Snobelen promised us will continue unabated.

Last week, I heard a young teacher speak. She was from the Durham board, the only board in this province where teachers have refused extracurricular activities. Their refusal is to compensate for an imposed settlement which took away half their preparation time. This young woman is in her second year of teaching and only this semester has she finally been given a preparation period. She is demoralized, distraught and exhausted. She has had enough—enough of her weekends and her holidays spent trying to catch up; enough of the endless teacher-bashing propagated by this government; enough trying to mark four classes worth of essays while preparing four new lessons outside of the school day; enough of not having any extra time to offer her students when they need that extra help. The news that in the coming year she will be mandated to do extracurricular activities was the last straw. She came to a profession she fondly remembered as a student, as one where she thought she could make a dramatic and positive impact on young people's lives, and she found only exhaustion. She has decided to leave the teaching profession behind.

If this legislation is implemented, teacher burnout rates will soar. The best and brightest will no longer be attracted to this profession, but will find jobs teaching outside Ontario or working in the private sector. I know many who are updating their resumé's.

Education is a people business, dependent on engendering good relationships and respect from the top down and the bottom up. If mutual admiration and respect does not permeate the system, how do we expect these attitudes to be reflected in our students who, like all of us, learn best by example? The unprecedented onslaught of teacher-bashing by this government has already taken its toll. What is the point? What benefit could possibly come to the people of Ontario by such mean-spirited actions?

1510

This government is sending a clear message to the public and to our students, in particular. It is not a message of respect for the people with whom students spend the bulk of their formative years. Rather, it is a message of disrespect, mistrust and outright hostility, and the greatest toll will be paid by our students. This will not be a hot media story like the breakdown of water testing in Walkerton. It will be the slow realization that the dropout rate is steadily rising, as more students slip through the ever-widening cracks without the extra help and mentoring they need and deserve. It will be found in spiritless schools across this province where teachers and administrators have become adversaries and where learning has lost its heart.

I beg you, ladies and gentlemen, do not leave this legacy to our children. Withdraw Bill 74.

*Applause.*

**The Chair:** Ladies and gentlemen, we are running a little late. I understand that this is a very emotional issue

and I'm trying to allow as much leeway as possible, but please do consider that we have quite a long list to go. So I would appreciate it if you would also respect the next speakers who are coming.

#### OTTAWA-CARLETON CATHOLIC EDUCATIONAL COMMUNITY

**The Chair:** Donna Marie Kennedy, Ottawa-Carleton Catholic Educational Community.

**Mr Sean Borg:** Good afternoon.

**The Chair:** You don't look like Donna Marie.

**Mr Borg:** No. My name is Sean Borg. I'm an OAC student enrolled in the Ottawa-Carleton Catholic School Board. I am also the student representative to the board of trustees. Accompanying me today are the chairperson of the board of trustees, Ms June Flynn-Turner, Donna Marie Kennedy, president of the Ottawa-Carleton unit of the Ontario English Catholic Teachers' Association, and Anne Plante-Perkins, the chairperson of the Ottawa-Carleton Catholic School Council Parent Association.

To begin, I would like to thank the members of the Ontario Legislative Assembly's standing committee on justice and social policy for providing us with an opportunity to present our observations and recommendations on some aspects of Bill 74, the Education Accountability Act.

Recently, our respective groups joined together in calling upon the provincial government to conduct public hearings on Bill 74. Although the scope of this current public consultation may not be as we had hoped, we are pleased to be provided with this opportunity to present our concerns.

Many groups in Ontario that are affected by education have made presentations to the government concerning certain provisions of the substance of Bill 74, as well as the legislative process employed in its introduction. Each of those groups put forward observations and recommendations specific to their unique perspective on the proposed act. While the content and tone of these various submissions may have differed, and in some cases may have been at variance, the overall theme of the dignity of individuals, respect for democratic process and a desire for inclusion in decision-making regarding accountability were paramount.

Recently a letter was forwarded to the honourable Minister of Education by all of the organizations and associations responsible for the implementation of education policy in the schools of Ontario. Together, we support their belief that effective school programs exist where there is a positive relationship between staff and students with a solid support from administration, the local school board and the school community. Also, we strongly concur that a strong and effective publicly funded education system, responsive to the needs of our students, is the cornerstone of a democratic society. All children have the right to an education given in a secure and stable school setting that nurtures their social,

spiritual, emotional and intellectual growth and development.

Our presentation mirrors these provincial initiatives in relation to the legislation, its substance and its process. Soon each of our representative groups will outline concerns and recommendations from their unique perspective. The unifying factor lies in our commitment to the principles of dignity and respect.

Our Catholic educational community upholds the inherent worth and dignity of each member of our community: students, parents, teachers, administrators, support staff, trustees and ratepayers. We have worked together to support the development of lifelong learners striving for academic excellence in a nurturing, safe and vibrant community.

We thank you for your careful consideration of our remarks.

**Ms Donna Marie Kennedy:** I am Donna Marie Kennedy and I am a teacher. I represent 2,200 teachers in the Ottawa-Carleton Catholic District School Board, both elementary and secondary. Our teachers have reviewed the essential components of Bill 74, the Education Accountability Act, 2000, and they conclude that Bill 74 is a serious attack on democracy and threatens the education of our students. The bill does nothing to enhance learning; in fact, we believe the bill reduces the educational opportunities of our elementary and secondary students.

We have reached this conclusion after examining the changes contemplated to instructional time for secondary teachers, changes to what the act deems "co-instructional" duties and the intrusion of a central power through compliance edicts at the local level.

It should be noted that our secondary teachers fulfill the 1,250 minutes of instructional time as required, which is exactly the same amount of instructional time contemplated in Bill 74. Our secondary teachers meet these 1,250 minutes of instructional time by teaching six credit classes, providing remedial and doing on-calls. In fact, a few years ago, secondary teachers in this province offered to extend the school day, which would have meant more time instructing students. This approach would benefit students, especially the present grade 9 students.

We have problems with co-instructional activities, or the designation of mandatory voluntary activities. Catholic teachers of Ottawa-Carleton have always been heavily involved in co-instructional activities in a way that would benefit their students. When my nieces and nephews speak to me of their experiences at school, they rarely volunteer information about scientific theories or geometry or the main character in a novel. However, they always speak with enthusiasm about their experiences before, during and after the school day: non-classroom educational opportunities led by their teachers because of their dedication to the school and to their students. I bring to your attention today examples of the work our teachers volunteer to do in the name of community. This folder speaks to the level of commitment our teachers have

always provided. I will leave that with the committee today.

Bill 74 seeks to slowly extinguish the spirit and commitment of teachers who have willingly given of their time, energy and expertise to support co-instructional activities in our schools. As Catholic teachers, we are committed to service over domination. Bill 74 disregards service and instead imposes its will on a group of professionals who have tried to instill the same spirit of service in our students.

The final nail in the education coffin is hammered home in the compliance provisions and the language which expands the power of a central authority over our duly elected representatives. We have always discussed common concerns and issues with our trustees. We haven't agreed on all matters; however, we have always worked towards solutions.

We have one recommendation to the committee and to the government: Withdraw Bill 74.

**Ms Anne Plante-Perkins:** Good afternoon. My name is Anne Plante-Perkins. I'm the representative of the parents in the Ottawa-Carleton Catholic school board. Thank you for seeing me this afternoon.

When I realized I was going to have the opportunity to speak to you today, I panicked a little. I usually research and analyze the topic of discussion, poll my "constituents" to arrive at a consensus and write a polished presentation, I hope. When it became apparent that the short timeline would not make this possible, I found myself with a nasty case of writer's block. But it occurred to me this morning that I did not have to do the sort of thing I usually do when faced with a presentation on an education-related topic. In fact, to do so would be perhaps ineffective, since it would involve going over the same semantic and emotional ground that has been well travelled by others.

For every 10 people who tell you that Bill 74 is draconian, reactionary and non-democratic, I would venture that you could find one who tells you it is firm, but fair and necessary. In fact, the experts at Angus Reid told us last week that the majority of Ontarians, who are non-parents, mind you, have a negative view of most elements of education. One can hope, though, that our provincial government would be ahead of public opinion rather than be led by it. But I digress.

1520

Why would I want to travel this path, therefore, when there is really only one overriding emotion that can express what most parents are feeling right now? Parents are feeling embattled, overextended, stressed out and weary. I will not debate or analyze the pros and cons of Bill 74, because at this point they are irrelevant to parents.

In the last three years in Ottawa-Carleton we have faced amalgamation, new elementary and secondary curricula, two years of school closures, program rationalization, boundary problems, funding formula changes and school structure debates. We have agonized over special education needs, English-as-a-second-language



cuts and unbelievable overcrowding in our suburban schools. I might also throw in as a personal reference the double-cohort problem.

We are heartily sick of being told that change can be good. This bromide is usually delivered by those who have not had to adapt to even a modicum of what has faced parents and students recently. I think it is telling that when psychologists list the top 10 stressors on modern society, and individuals in society, they list among them positive events like marriage, childbirth and home purchases. Even positive change is stressful. This is particularly true if the pace of change is accelerated and the number of changes unrelenting. How much more exhausting is it to face changes that many consider less than positive?

It is more than time to give students and parents a break in the pace of change in education. Withdraw or delay the implementation of Bill 74. Parents feel as though they and their children are in a boat on a storm-tossed lake. The provincial government's attempts to rescue us are having the unhappy result of swamping the boat.

Thank you for your time.

**Ms June Flynn-Turner:** I'm June Flynn-Turner, the chair of the Ottawa-Carleton Catholic school board. You've heard from our parents, our students and our teachers, and I'm not going to add a lot to it. I do want to talk about what the essence of Catholic schools is, and our bishops have communicated this to the government.

We are a Catholic community, and community involves collaboration among all of our constituent groups; not confrontation, not aggressiveness, but collaboration and consultation. We've had that in the past. We have not always agreed and we will continue to not always agree. But when we don't agree, as a Catholic community, we find a solution we can all live with.

This bill will put our teachers in a confrontational, adversarial relationship with our principals. You are asking our principals to perform in a manner that is inconsistent with and against their Catholic faith and their Catholic beliefs. I have to tell you that as a trustee I have serious problems being asked by this government to be a policeman for the indentured servitude of our teachers. I cannot accept that and I won't. Thank you.

**Ms Kennedy:** Do we have time for questions?

**The Chair:** You have time for about one question.

**Mr McGuinty:** I want to thank you for your presentation. I note that one of the aspects that makes it particularly compelling is because we have representation here from the most important constituency groups: students, teachers, parents and trustees. As we've had the opportunity, limited though these hearings may be, to hear from people, there is a resounding consensus that has developed out there which should act like a brilliant red flare for the government so that they understand there's danger here. For us to move forward on Bill 74, given all of the concerns and objections that have been raised by people who are genuinely committed to

publicly funded education in Ontario, would be a huge mistake.

We have gone so far, Gerard Kennedy and myself, to sponsor our own hearings to allow for greater input from the huge numbers of people who have expressed an interest in speaking to this bill.

One of the things Anne, the parent, talked about was something which goes unrecognized too often, it seems to me, by politicians when it comes to education, that at some point in time we have to recognize the right to legislative stability. The more I talk to people in education, the more they say to me: "Listen, we're just coping with the last change you shoved down our throats. We're just adjusting to that, learning how to execute that plan, and now you're talking about another plan. We still haven't been able to live up to our responsibilities created under the last plan." I wonder if you might speak to that a little bit more in terms of how you feel the parents are feeling today about this continuing turmoil.

**Ms Plante-Perkins:** I think it's having an extraordinarily detrimental effect on the level of volunteerism that has been permeating the school system from the parent level for a long time. When we were PTAs, when we were parent advisory committees, there was a degree of commitment and joy to the events that took place in the school. We were doing hot dogs, we were doing curriculum studies, we were reading to the kids. All the things that the Royal Commission on Learning said were the kinds of issues that the parents should be involved with were directly related to improving the education of the children—being able to take them on little field trips that supported the curriculum that was in place. There was a joy that was there.

I am in two schools, a high school and an elementary school, now. The elementary school used to have an enormous number of people volunteering to do an awful lot of things around the school council table. I am seeing a decline in the number of people coming around the table. They can't take any more. They really can't take any more. The one person who has summarized it for me is saying that essentially now we are legislated volunteers. There's no joy in it any more.

It is difficult enough to do the kind of work that you do during the day with two parents working or single-parent families and then to have to come to a meeting that has to continuously deal with adjustments that are so basic to the children's education instead of being able to do the kinds of things that we think would be really supportive and improve children's education. It's very discouraging. I am detecting a great deal of fall-off in energy, if you will. There will always be parents who will go and do no matter what, but it's not with joy any more.

**The Chair:** Thank you, Ms Perkins.

**Mr Guzzo:** Just one point of information: We have no phone number and no mailing address for this organization. I wonder if you could leave it.

**The Chair:** We can certainly provide that.

**Ms Kennedy:** We'll do that.

**The Chair:** If you wish to give it, you can, but it is something, apparently, that you're not required to provide.

Thank you for coming this afternoon.

MICHELE PERRY

**The Chair:** The next speaker is Michele Perry.

**Ms Michele Perry:** My name is Michele Perry and I live in Brockville. I'm a stay-at-home parent and have been for eight years. I have three children, ages seven, five and one, so as you can see, I have a vested interest in the future of public education.

I come here today as a parent and a concerned citizen. I feel I also have some additional insights to offer, having taught in the past for five years, both in Ontario and overseas. I take this opportunity to speak very seriously. A government must listen to its citizens, and so I bring to this hearing not only my own concerns and comments but those of my friends, neighbours, and fellow parents, as well as several chairs and members of parent advisory councils.

I would like to address two main issues in relation to the provisions in Bill 74, these being its effect on the quality of education and its impact on the rights and freedoms of Ontario's citizens.

1530

No one single factor affects the quality of our children's experience in school more than the classroom teacher. I'm sure all of us have vivid memories of our school days. More often than not, these are focused around the individuals who taught us—most good, some bad perhaps. I want, as all parents do, the best for my children. When it comes to education, the best, to me, means excellent teachers teaching an appropriate curriculum in a safe environment with all the resources available to them to help our children achieve. We must encourage the best, the brightest, the most creative young people to enter the teaching profession. I don't believe this bill helps us to do that, unfortunately.

I think the provisions in the bill for limiting class size are a step in the right direction. Fewer students per class will certainly allow more time for each of them. But there is a danger here, and that is that we must not assume that because a class is smaller we no longer need the educational assistants or the special education resources. The reality I see in our schools every day is that special-needs children are going by the wayside. I don't know where the problem exists, but somehow in the scramble to cut budgets and implement new curricula, the resources are disappearing from the classroom. The education of all the children in my community is important to me. My Ontario is a place where the disadvantaged, the disabled, the poor are not left behind.

At the secondary level, again, we have limiting of class size—an excellent idea, especially in view of the new demanding curricula. But the same problem exists for our weakest students: not only lack of support but harder material for them to learn. Teachers will also have

less time at the secondary level for each child, as they'll be teaching more classes. I fail to see how this is supposed to improve the quality of education.

If the point of this is to save money, then the government should say so. If we want our children to be able to move forward, we have to provide resources to students, parents and teachers, so that as many as possible can succeed.

I believe the most publicly recognizable part of this bill deals with the co-curricular activities, the mandating of volunteer activities. It seems like an oxymoron, and in truth, not a single person I talked to was in favour of this provision, but many understood that we want to preserve the experiences that our children have while playing in the band, or sports, or going on field trips. This bill seems to miss the nature of these experiences completely.

I understand that this provision is supposed to be an answer to the work-to-rule problem that exists in the Durham board, where students have been deprived of these activities. However, it seems grossly unfair to the large majority of teachers who cheerfully and willingly give of their time, interest and enthusiasm. Making teachers feel angry and unappreciated is hardly going to improve the quality of the classroom, or co-curricular experience, for our kids. Perhaps a more co-operative approach, working together with all involved, would work better.

The comments I received from parent councils mirrored this view, as well as some frustration that in fact they themselves felt forced into volunteering. Parent councils are having increasing trouble finding people to serve, leading to most positions being acclaimed because, and I quote from three different people, "No one else will do it."

Our own school council has many positions that we could not fill this year. We have no chair, no co-chair and no secretary. People find they have less time for a job that's growing past their knowledge, their expertise or their time available, and yet schools are required to have a parents' council. Are we already mandating parent volunteering?

One last point on the co-curricular issue: Would we force our children to participate in activities that we choose for them, regardless of their opinion? Of course not. These activities are supposed to be fun. I don't know if many of you deal on a daily basis with small children, but trust me, what little kids want to do is have fun. A valuable learning experience? Yes. But fun for everyone involved, and you can't mandate people to enjoy themselves.

The second issue I would like to address has more to do with quality of life, maybe, than quality of education and as such is perhaps more important. Upon reading the proposed bill, I found to my consternation a number of sections that appear to be not only unfair but unnecessarily restrictive or sweeping.

As a child of a World War II veteran who received his country's highest military honour, I have often reflected on the meaning of the freedom he risked his life for. I



now find myself reflecting again on the meaning of freedom and how a government must balance the rights of its citizens versus the laws that are for the good of all. The sections of this bill that make legal contracts between school boards and their employees non-existent seem to go against the rule of law. We have contracts that control everything in our lives, from our car insurance to paying taxes. Contracts are, or should be, legally binding documents, and it upsets me to think that contracts of any type can simply be put aside with no redress by the government in power.

**The Chair:** You have about one minute left, Ms Perry.

**Ms Perry:** There doesn't appear to me to be any compelling public good that would be served by this. The restrictions placed on our trustees' ability to serve their constituents, the wide-ranging powers of the minister, the ability to terminate employees without redress—all of these things give me a sinking feeling in the pit of my stomach. I don't know whether these provisions are legal—I'm not a lawyer—but I know that they're morally wrong.

Educating children is not a factory in which you can speed up the assembly line and increase production. Education is about people and relationships, working together for a common good. I implore you to create an atmosphere of co-operation and good will with all levels of the education system. My children have to grow up in this Ontario. Please, for Scott and Sarah and Amy, use a handshake and not a hammer.

Thank you for your attention.

**The Chair:** Thank you, Ms Perry.

The next speaker is Kristen Grillo.

#### CATHOLIC PRINCIPALS' COUNCIL OF ONTARIO

**Ms Mary-Catherine Kelly:** Good afternoon. My name is not Kristen Grillo. My name is Mary-Catherine Kelly and I'm here today representing 2,000 Catholic principals and vice-principals. The reason I am here at this table today is because OECTA had a position on this presentation panel today and Kristen is from Thunder Bay and was unable to make the trip here today. When the Catholic principals and the other principals' councils in the province asked to come forward to get on the presentation list, none of the principals' groups was accepted to come forward in your list. OECTA graciously gave us the position to be able to come and speak to you today. I ask your permission to do a brief presentation.

**The Chair:** That's OK.

**Ms Kelly:** As I mentioned, I represent 2,000 Catholic principals and vice-principals. We're very pleased that you are gracious enough to allow us to speak at your presentations today. Our members want to express our concern over several aspects of Bill 74 and the destabilizing effect it will have on our schools if this passes in its current form.

Our Catholic schools work because of the dedication and commitment of all of the staff to the education of the students in their care. They are places where success is determined through positive relationships as well as effective instruction. By removing certain rights from teachers and imposing mandatory compliance obligations on school boards and principals, Bill 74 threatens to drive a wedge between the very people who now enable students to benefit from their entire school experience.

The Catholic Principals' Council recognizes the need for clarification of the duties of teachers under the Education Act to ensure that the schools can work effectively for students. Activities that are essential to the proper functioning of schools, such as parent-teacher interviews and staff meetings, should not be considered co-instructional duties and should be mandatory for teachers. However, the Catholic Principals' Council recognizes that teachers, on a voluntary basis, have carried on other kinds of extracurricular activities for years. They genuinely love to be involved with students on field trips, retreats, after-school clubs, arts and sports activities. They offer their evenings and weekends for school duties such as parents' nights, curriculum nights and graduations. In our Catholic elementary and secondary schools, teachers are also involved in parish work and sacramental preparation that extend far beyond the school day. They are professionals; they don't punch a clock.

#### 1540

By making such extracurricular activities mandatory, this bill infringes on the rights of all teachers and places principals in the untenable position of having to impose duties that otherwise would have been graciously volunteered. While principals will continue to take a fair and balanced approach to this task, the co-operative nature of their relationship with teachers will now be at risk. We are also concerned that at a time when there is a worldwide teacher shortage, this legislation will discourage people from considering careers in teaching or in educational leadership.

Much attention has been given in the past several years to ensuring that schools are safe places for students and staff. Safe schools are everyone's concern, and because of their positive relationship with students, teachers are in the best position to provide the kind of supervision that will ensure safe schools and positive learning environments. In many of our Catholic secondary schools the administration and teachers have worked together to implement measures that will discourage violence and vandalism. The change in teaching loads in secondary schools from 6.0 to 6.67 is expected to have a serious and detrimental effect on the ability of principals to ensure safe learning environments for the students in their care. It should be noted that the decrease in class size will not provide any child more time in classes. Our research indicates, however, that the number of teachers available in the school during any period of the day to supervise cafeterias, hallways and school grounds will be reduced by approximately 24%. During peak periods this

could rise to 35%. This matter is of serious concern to secondary school principals. With less supervision, increases in vandalism, student harassment and violent incidents are anticipated.

Because of the increase in teaching time there will also be fewer teachers available for other duties. It will be difficult to cover classes when teachers are absent or out of the school, thus limiting the schools' ability to provide a wide range of co-curricular and extracurricular programs. What makes the co-curricular and extracurricular programs work in secondary schools is the ability to provide this type of coverage. With the reduction in teachers' availability to take on these duties, these programs will be very difficult to maintain.

In addition to the specific concerns I have outlined, as community leaders, Catholic principals are concerned about the undemocratic nature of this bill. The powers extended to the minister are excessive, and the bill unnecessarily intrudes on the right of school boards to determine how to meet the needs of their communities.

In summary, although the government claims Bill 74 will improve the quality of education, it is important for the public to know that the passage of this bill will result in an increase in the number of classes a teacher must teach, more pupils per teacher, fewer co-instructional programs, more difficulty in covering classes for absent teachers, fewer people choosing careers as teachers and principals, schools which are less safe and a destabilized system next fall.

The Catholic Principals' Council of Ontario urges the government to address the needs of students, parents and the school system through appropriate consultation and by working collaboratively with the stakeholders to find solutions that will enable the schools to operate safely and effectively.

**The Chair:** Thank you, Ms Kelly. Unfortunately, we don't have any time for questions.

**Ms Kelly:** Thank you for the opportunity.

#### BRIAN VAN NORMAN

**The Chair:** The next speaker is Brian Van Norman. Good afternoon.

**Mr Brian Van Norman:** Hello. I think I'm in a little over my head here, but here goes. I've lived in Ontario all my life, and I'm sure you'll agree it has been a wonderful place to live. I've never concerned myself deeply with politics. I've voted in each election since I came of age, paid my taxes annually and occasionally followed news coverage of political events in the province. I think I have an average person's knowledge of the issues facing our government, but I don't pretend to be an authority on the complexities buried beneath those issues.

I'm here today because I became interested enough in Bill 74 through conversations with friends and letters to newspaper editors and reports of the progress of this bill to actually take the time to read the legislation, and it disturbed me. It disturbed me enough to call the com-

mittee offices and ask to be heard at these proceedings. I never expected to be selected and when I received the telephone call, I went into a kind of paroxysm of panic at the thought of being here. I wondered what I could say that might be of any value to a body of legislators who have heard from so many knowledgeable presenters already and are probably tired and reaching information overload from the intensity of these proceedings. So I thought the best thing to do was simply to offer a few perceptions of an ordinary citizen who, for once in his life, has taken the time to become more involved than usual, and I hope they may be of some use.

I said Bill 74 disturbed me, and I'd like to tell you why. I am aware that there is an intrinsic conflict at present between our government and teachers. I'm aware, too, that there are political agendas at work here that are beyond my scope. But it's not what I've heard that troubled me so much as what I've read. I've read a piece of legislation that seems to be an overreaction, or at least a desperate measure to curb a certain constituency to the will of the government. It goes beyond teachers and unions and education policies and, should this legislation pass, I fear it will open a Pandora's box of potential exploitation and abuses that could affect all citizens of Ontario.

What concerns me is its intrinsic unfairness. The first thing I noticed was the provision to make what had been known as "extracurricular activities" into "co-instructional activities" and to make those formerly voluntary activities mandatory. But more troubling was the indication that these activities could be assigned at any time during the day, seven days a week, with no specified maximum number of hours of work. This section of the legislation, combined with the increased instructional hours of teaching, seems to place an unfair workload on teachers which is clearly open to abuse in the potential case of a prejudiced or overly ambitious principal. We would all like to believe that our employers are equitable in their natures, but what if one or two, or five or 10, are not?

The bill goes on to prohibit teachers from appealing to an arbitrator should that unfortunate circumstance occur. It denies certain citizens of this province a fundamental tenet of law, that there should be some kind of court or tribunal for citizens to bring forward their legitimate grievances. This will certainly lead to resentment, and that resentment will lead to disruption in our schools. So the government's plan to improve the education system will suffer. Who wants to place their children in that type of environment? Apparently, any board employee or trustee who does not comply with the government's policies can be dismissed or fined with no recourse. This section of the act, then, has consequences reaching far beyond its apparent scope. Once in place as law, what is to prevent an unscrupulous government from expanding this law's provisions to other citizens of the province?

The next part that troubled me about Bill 74 was its apparent removal of teachers from negotiating reasonable terms of employment. It says in the bill, in section



170.2.2, "The Labour Relations Act, 1995 does not apply to prevent the board from altering terms and conditions of employment ... as the board sees fit to enable it to alter the level of teaching staff that it employs to a level that it considers appropriate." I always thought that a contract was a contract. What good is a contract if it can be arbitrarily changed or broken? There are thousands of people in Ontario today who work under negotiated contracts, short-term or long-term. Yet this part of the bill indicates that an employer will be enabled to alter a contract in midstream. This is not only frightening to any average citizen, I think it's illegal. But if this bill becomes law, it opens the way for potentially massive exploitation of every person in Ontario who signs a contract to complete a specific job. I thought our current government staked a claim to be business-oriented. How can a business-oriented government remove the central tenet of any business—the contract between supplier and recipient, service provider and beneficiary, or employer and employee?

1550

I guess the most disturbing thing about the bill is that it appears to position the Minister of Education as somehow above the law. Under section 230.4, if the minister has concerns regarding non-compliance, he or she is enabled to exclusive jurisdiction of a board of education; in effect, to take control and micromanage the administration and affairs of that board. The bill goes on to say, in section 230.7, that the minister's jurisdiction would not be open to question or review in any proceeding or by any court. To an ordinary citizen the question arises, "How can a politician be above the law?"

It seems to me that politicians are elected to serve their constituents, not to be enabled to arbitrarily countermand the direction of board trustees who were, in turn, elected to serve those same constituents at a local level. This does not seem like democracy. It has the appearance of centralizing authority and actually shifting the present government's policy of offering more autonomy to locally elected officials who better understand local problems and solutions. It's a paradox that I and others like me can't understand.

There's little point in my trying to further analyze Bill 74. You've heard it all before me and know its permutations better than I.

**Mr Guzzo:** We haven't heard your last two points. You're the first to raise them. Keep going.

**Mr Van Norman:** OK. I'm nervous enough.

**Mr Guzzo:** You're not in over your head, sir, let me tell you. You're right on. Keep going.

**Mr Van Norman:** I said at the beginning of my presentation that the implications of the bill disturbed me. It seems to set precedents that for the ordinary person are very distressing in their potential for abuse.

I'd like to leave you with a few more general perceptions than the specifics I've tried to present, because I think most average citizens don't know the ins and outs of this legislation, and I think it's more important to speak about how some of us feel.

The biggest question that arises is "Why?" Why does the government feel the necessity to create this kind of repressive legislation that removes some basic rights from some of its constituents and is, to say the least, frightening in its implications? A few years ago Mr Snobelen indicated publicly that the government had to create a crisis in education. The perception among a lot of ordinary people is that there have been too many crises in the past little while, and where have they got us? It seems the health care system isn't working very well right now and serious environmental questions have appeared in the past couple of weeks. Is another crisis necessary, and if it comes about, what will the repercussions be for our children's education?

I'd like to ask you to try for a minute to see through the eyes of some ordinary citizens. What we perceive right now is Progressive Conservatives becoming repressive legislators, common sense turning to nonsense and a blueprint changing to prescription. I don't think this is the style of government people voted for in the last election.

I hope you don't perceive this as a rant. There has been a little too much ranting lately and too much bullying and threatening. Unfortunately this bill seems to be its culmination. I'd like to ask you, couldn't this bill be withdrawn in the spirit of fairness and couldn't we just get back to some common sense? Thank you for letting me speak today.

**The Chair:** Thank you, Mr Van Norman.

MARGARET McCORNOCK

**The Chair:** The next speaker is Margaret McCornock.

**Ms Margaret McCornock:** My name is Margaret McCornock, and I am a secondary math teacher, just finishing my 29th year. I teach in Kemptville, just south of the city.

During my 29 years I have coached teams, I have worked with numerous clubs, I've been on the board's public relations committee at a time when I felt that maybe things weren't going so well between our board, our community and our teachers. I thought maybe I should try to do something about that. I have coordinated commencements. I have also been fortunate enough to take part in three international teacher exchange programs, having just returned this January from a year in Australia.

I can't believe what has happened to education in those 29 years, and particularly in the time of the Mike Harris government. I know that it's 4 o'clock in the afternoon and you've been listening to this all day and there's probably very little I can say to add to what has already been said, but here goes anyway.

The title of the bill says that it's intended to increase education quality, improve accountability of school boards and enhance students' school experience. In my opinion, it does none of the above. There's nothing about accountability; it's all about compliance—do it my way or hit the highway, in some cases. There is nothing that I

can see that improves education quality. Having an extra class of approximately 25 students next year is not going to allow me in any way to improve the program I deliver to the students.

I have found it increasingly difficult as the years go by, and I don't believe this is just because of increasing age, to keep up with the constant changes that are demanded of us. The curriculum changes from year to year. With the adjustment of the five-year program down to four, we are having to restructure every single course in the high school curriculum, and that's not easily done. It takes time to prepare for those courses and to deliver them properly. With all the extra demands of more students and the possibility of compulsory extracurricular or co-instruction, or whatever you want to call them, activities, that's going to be harder and harder to do.

The bill is, in my estimation, punitive and mean-spirited. There is no justification for what is in there.

The parts of the bill that have received the most media play, of course, have to do with co-instructional, extracurricular activities. Other than the odd time when there are labour disputes or the situation in Durham now, that system is working just fine the way it is. If it isn't broken, why fix it? We have virtually everyone on our staff doing extracurricular coaching and club work and so on. It's becoming harder and harder to do. There just aren't enough hours in the day.

Just two weeks ago our band returned from a four-day trip to New York City, part of that four days being over the weekend. The band instructor was absolutely physically exhausted by the time it was over, because not only did she have to get the band ready and supervise the kids while she was there, she had to do the fundraising to make sure that the thing actually happened.

Teachers are tired, they're angry, they're demoralized. I can't believe that in this country we have been subjected to the media campaign that we've had to endure the last few years. There's no way that any group of workers should have to take that. We've been singled out as being somehow special. We don't quite fit under the Labour Relations Act, according to this bill. Our contracts can be changed. It doesn't matter what's written down there and signed and supposedly legally binding on both parties. They can be changed if the board so desires.

There are lots of issues I could deal with, but mainly I just wanted to focus on the personal, what this is doing to teachers. There's one fellow on our staff, he has taught for probably five or six years, a wonderful young man, an excellent teacher, an extremely talented coach. Last Thursday night he and his wife, another teacher, put together our awards banquet. At that banquet he was selected by the students of the school as the recipient of the teacher appreciation award. The next morning he gets called into the principal's office: "Congratulations, Randy. You've done an excellent job. It's wonderful that you got the award. By the way, you have no job next year." That's because of the change in the workload required of the teachers.

My department head, again, a very talented teacher, was quoted this week as saying: "They have taken every bit of joy out of teaching. There's so much other stuff going on that I have to deal with that it's not fun anymore and I'm not sure how long I will do this."

**1600**

A lot of our younger teachers are looking seriously at jobs in other areas—not other areas as in other school boards, other provinces, but other occupations totally. Many of us, myself included, are seriously looking at international teaching again. The past three experiences I've had have been an exchange. I'm not sure that I'd want to exchange with another teacher and have them come here and try to cope with the Ontario education system as it's going to be if this bill is passed.

There are so many issues. Certainly, the issues with the contracts are of a big concern to me, the issues with the trustees and their supposed accountability. My dad was a trustee on a school board for 26 years, following in his dad's footsteps. If he was healthier, he'd be here to tell you exactly what he thought of this Bill 74. To have a publicly elected official who is supposed to represent their constituents be basically muzzled by a bill like this if they wished to speak against the Harris government party line is just unconscionable.

I'm going to close with just a couple of quotes from a newsletter that all of our teachers received. They are quotes from teachers at Almonte high school who are, for one reason or another, leaving this year. One is from a career math teacher who has decided to take early retirement. He states: "The political climate is unbearable. I have been through enough government imposed regulations and I've seen the damage that occurs."

A five-year computer teacher: "Last year I taught four classes out of four. The quality of my teaching declined. My students didn't learn as much as I'd hoped. The demands on my time were absolutely impossible. This year, more and more administrative work is asked of us. Low staff morale only adds to my stress and my time at home is affected. I also need to update my skills, and by going back into industry, I will gain more knowledge than I can now. The government has made us scapegoats and I think it will continue for a long time."

The principal, who is also taking early retirement: "I cannot accept that this is happening in public education in Ontario. Everything we do has been undermined. Students are not put first. Teachers are given absolutely no credit for what they do. Morale has been destroyed. Harris's lack of social conscience places us in 19th century Britain. Facts, facts, facts. Learn them and get a job. There is no longer support for individuality, creativity or special programs. The Harris government is robbing the human spirit from our profession and I fear that it will only get worse with the passage of this bill."

Like many others in this room, I could probably go on for two hours about this. However, I know I have my allotted time. I have here a petition signed by roughly 250—I think slightly more than 250—citizens of eastern Ontario that I would like to present, requesting that there



be, at the very least, more public hearings into this bill and, better still, a withdrawal of the bill. Thank you.

**The Acting Chair (Mr Steve Gilchrist):** Thank you. That chews up the 10 minutes, but we thank you very much for coming forward and bringing us your comments.

NEIL BENJAMIN  
LORI TAYLOR

**The Acting Chair:** For our next presentation, we have two people coming up, Lori Taylor and Neil Benjamin, if they could join us at the witness table. Good afternoon. Welcome to the committee. We have 10 minutes for your presentation.

**Mr Neil Benjamin:** Thank you, honourable members of the committee, ladies and gentlemen. Good afternoon. I'm Neil Benjamin. I speak for all my colleagues and my peers at St Lawrence high school in Cornwall.

I wish to educate the members of the Harris government on the life of an average teacher, Neil Benjamin. Outside of school, I serve on the board of directors at my church, I am a member of the Kinsmen Club, a Mason, a member of a group that promotes local history in the curriculum, a charitable giver and a volunteer, a brother, a son. I love to teach. I love to know that I may have touched a student and helped them through the struggle of life by imparting knowledge and the direction of knowledge. I do not accomplish the aforementioned solely from the classroom. In my short yet active career in the teaching profession, I have been a tutor to many students before 8 am, at lunch, during breaks, after school and on weekends. I have travelled through the sounds of education by conducting and helping the school concert band, jazz band and music rehearsals. I have brought history to life through Canada Quiz and remembrance ceremonies. I have coached 11 hormonal boys through a fun, yet not so accomplished, volleyball season. I have supervised 300 and more hormonal teenagers at school dances and proms. And I have sat proudly through graduation to see the fruits of education and society's labour come forth as graduates. I have served and shared with my peers at many professional development meetings and many school functions, all things I love to do, and nobody tells me I must do them.

I will not willingly participate in co-instructional activities next year, not because I do not wish to but because the Harris government has made something I love to do mandated. I never sought a "thank you" or a "job well done." These labours have been performed without remittance. However, Harris has seen it necessary to draw attention to co-instructional time, and the "thank you" and the "job well done" implied in doing these activities will be mandated. I tell you, they cannot.

The actions of this government have taken respect out of education and made teachers feel worthless and expendable. On the other hand, this government tries to restore respect through legislation with a strict code of

conduct and behaviour. You can't do that either. Once respect is gone, it is gone.

I have been teaching for two years. I'm tired, tired not from teaching but from dealing with the ignorance and insolence slung down at the teachers by the Harris government. We as teachers have made a new curriculum work, unsupported and without professional development and resources. Try teaching the new grade 9 geography course without a text, not because there weren't enough texts but because they were not ready when the course began. In my current geography text, Lake Ontario runs into Lake Erie. This text was stamped "Approved by the ministry"—Lake Ontario runs into Lake Erie.

Enough said about a hastily constructed curriculum and support materials. We have made electronic report cards function from the dysfunctional. We have had schools function with less support staff. How have we been thanked as teachers? We are thanked by the Harris government for making a crisis—their crisis—work by a piece of legislation I wouldn't line a birdcage with.

There are six things in this legislation that I find morally and socially objectionable.

(1) Mandatory co-instructional activities: a labour of love now a forced labour. I will be at the beck and call of my administration 24 hours a day, 7 days a week. Marriage does not demand this much dedication.

(2) Increased staff workload: 21 students on average—average—per class per teacher. Is this the baker's dozen for classroom size? Teaching more does not give me contact time between a student and me. It gives less contact time of a teacher with more students.

(3) The removal of what few benefits of contractual negotiation teachers have is something that really bothers me. I have more to talk about than just that, so I'll move on.

(4) The punitive measures of exacting fines and disbandment. My elected trustees, if they vote with their conscience and their constituents and not with Janet Ecker or Mike Harris, will be penalized, fined and barred from running for office of trustee. I am a voter, I am a citizen of a free democratic country and I am a taxpayer too. I do not pay taxes to the Harris government to be insulted. My taxpayer dollars are not at work.

(5) Destroying the positive relationships between student, teacher and administrator through punitive and legal measures. Unlike a political party, teachers, administrators and trustees are permitted to be of unlike minds, and we will not allow the Harris government to create the role of party whip out of our administrators or our elected officials.

(6) Creating the final crisis, which former Minister of Education Snobelen sought, however never achieved. My greatest fear is that Mr Harris wishes to institute, using the excuse of a crisis, a businesslike school system such as the voucher system or charter schools. They don't work.

**1610**

I thank the Harris government for one thing. For the first time in this government's mandate, they've actually

provided support and resource materials before the teachers have taught the new grade 10 civics curriculum. Bill 74, media releases, this deposition hearing and the Ontario Legislature's Hansard are resource materials enough to demonstrate and educate grade 10s next year on the role and responsibilities of a good citizen to fight against injustice, ignorance and intolerance by any means possible.

I thank you for your time, and I sign off as Neil Benjamin, BA, B.Ed, and master of common sense.

I'd like to introduce a colleague and friend at St Lawrence high school, Ms Lori Taylor.

**Ms Lori Taylor:** Thank you very much for allowing me to speak today. My name is Lori Taylor, and I am extremely proud to be a communications technology teacher at St Lawrence high school in Cornwall, Ontario. Today I would like to share with you a very personal story about how Bill 74, even though it hasn't passed yet, has already impacted and will continue to impact teachers' lives.

Each year in my senior communications technology course, I teach a unit on careers. This is one of my favourite units to teach, because students begin to see how the path of employment is easily recognizable and can be related to school teaching. But, believe it or not, this very same career unit has recently become one of the toughest units for me to teach on a personal level.

I know you're probably wondering what could possibly be tough about teaching a unit on careers. Sure, there is a need to constantly revamp the lessons to keep up with the ever-changing world of high-tech. But, heck, this doesn't differ dramatically from any other lesson that has to be taught in technology or any other area of teaching. What I do find challenging about teaching a technology career unit is the questions my students ask of me: "Miss, what are you doing in tech? You can make the big bucks. What are you doing as a teacher?" "Miss, look at all the job opportunities in the paper. Why aren't you working for Corel? Why aren't you working for Microsoft? What are you doing being a teacher?"

I can easily say that what I do with my life is my own business, but you just have to read the recent newspapers to know that what teachers do is everybody's business. I'd like to say that I always tell my students that the reason I am a teacher is because I truly love my job and that making money is not the be-all and end-all to me. Job satisfaction is extremely important to me, but I have a hard time justifying that to students who grew up in the hedonistic 1980s.

I'd like to illustrate something that happened to me lately that I've told my students and that has maybe given them a better understanding about how passionately I feel about teaching. On April 15, 2000, while driving home from this very city, I thought I could make my car fly. Brake failure, road conditions, a sick metaphor for my own life spinning out of control in education—I don't know. I managed to roll my car three times, smash my roof into my seat and still walk out of the car alive. I'm a lucky person; I don't need to be told that. The rational-

izing, technological part of me would also like to believe there is still a reason I'm on this planet. I don't mean to sound hokey here, but I've learned many things from this experience, one being that you can never have too much insurance. I've also learned that maybe the reason I didn't check out on that day is that I'm meant to be a teacher. I know I want to be a teacher.

I didn't survive a car wreck to sell my soul out to some corporation, but I can honestly tell you that Bill 74 has me questioning my profound renewed commitment to education. I can't illustrate to you any more profoundly, and I wish I had a different example, how much education and the teaching profession mean to me. But I cannot work in a profession where my civil liberties are at stake. I cannot work in conditions where I am subject to the whim of an administrator any time she or he needs me, day or night. I do not work with widgets, and thank God I don't. I work with adolescent human beings, and they do have hormones and they do change on a daily basis. I work alongside them, I enjoy learning with them, but they are exhausting. Widgets perform the same, day in and day out; human beings, as I said, do not. I work with close to 100 different students while teaching three periods a day, and each of these students is unique. They have their own strengths, abilities and areas they struggle with.

In communications technology, I teach them without any textbooks or special resources to accommodate their various needs. I'm exhausted at the end of the day, and I don't have a young family to go home and look after. I will not survive an increased workload, nor should I have to.

Since the start of this semester, I have volunteered over 250 hours at my school on top of teaching. This by no means includes the extra hours I have put into implementing the new grade 9 report card system, TAP, SIS or the grade 9 curriculum. I only know this because I had to calculate the hours for a course I was taking to upgrade my skills at Queen's. I tell you this not because I need anyone's sympathy but only because I want to scream to the world that I do not need to be legislated to spend time with kids. I put extra hours into my school, my community and ultimately into working with students because I want to. But you know what? I'm not unique. I'm a teacher, and that's what teachers have been doing forever. I suppose you can legislate me to do my job and to perform co-instructional activities. But can you legislate my commitment? I think not.

As I sit back and write this, I'm immensely saddened. I need only look out the window and see the media circus in front of my own school—yes, I'm from St Lawrence high school—to see what a spectacle education has become and how the rhetoric of the few is impacting the lives of the many. Life is far too short for me to work for an employer with its own version of the "notwithstanding" clause.

If Bill 74 passes, I highly doubt I'll be returning to my classroom. Life is not meant to be fair, but it will hurt me immensely to give up the kids I thoroughly enjoy working with and the colleagues whose support, wisdom



and camaraderie I've come to depend upon on a daily basis. This just causes me to wonder when the next bill is going to be passed that tells my corporate employer that I have to perform so many co-corporate hours on top of my business activities in order to collect my salary.

**The Acting Chair:** Thank you both. You're bang on your time. Thank you very much, though, for making the trip and making your presentation before us here today.

#### DALE JOHNSTON

**The Acting Chair:** Our next presenter will be Dale Johnston. Welcome to the committee. We have 10 minutes for your presentation.

**Ms Dale Johnston:** My name is Dale Johnston, and I am an elementary teacher with the Waterloo Region District School Board. I have travelled from Kitchener today to speak as a teacher and as a citizen of Ontario. What I'm going to say comes from my heart and was written by me, not my union bosses, as this government likes to refer to the officials I have democratically elected to represent me. You need to hear from more teachers. These hearings must be extended.

I am appalled by the very fact that Bill 74 was ever written. This bill is undemocratic, it is unnecessary and it serves only to inflict more damage on our education system.

To legislate co-instructional duties for teachers in this bill is totally unnecessary. Thousands of teachers in Ontario volunteer their time and expertise to provide these activities for our students every day. The co-instructional aspects of Bill 74 are a direct result of one region's voluntary actions due to a labour-management dispute which this government initiated. Mrs Ecker, as education minister, and Mr Harris, as a former teacher, should know that when you want to encourage positive behaviour or a job well done, you openly praise that behaviour in order for it to catch on.

For example, when I see a student working diligently on a challenging problem in my class, I say to the student for the whole class to hear: "Wow, Karen, excellent work. You're really persevering on that task. Way to go." Suddenly, all 29 of my other students are re-energized and follow Karen's example. Major corporations do the same: Employee of the Month awards are handed out, monetary and material bonuses are given for jobs well done that may or may not be beyond job description and exceptional work by employees is recognized in company newsletters. Imagine what would have happened in our schools, not just in Mrs Ecker's riding but across Ontario, if the money spent on promoting this bill through expensive radio ads was used to praise teachers for the fabulous voluntary extracurricular activities they are currently providing.

It is now after 4 pm, when most schools have ended for the day. But I assure you that as I speak, thousands of teachers in Ontario are still hard at work. Many are conducting band practices, coaching sports teams, directing musicals, driving students to track and field meets, are on overnight trips hours from their homes,

organizing fundraising for textbooks and library materials, maintaining computer labs, arranging guest speakers—this list goes on and on. These activities are voluntarily provided by teachers, despite the fact that we are implementing a new curriculum—for which little professional development was given by this government—planning lessons for reading, writing, oral and visual communication, five strands of math, social studies, science and technology, visual arts, music, dance and drama, physical education and French. They are also assessing and evaluating students on all these subjects and writing extensive report cards for each student. They are putting up bulletin boards, writing newsletters to parents, meeting with school councils and phoning and meeting with parents to discuss concerns.

Why then, with such a busy schedule, which begins for me at 7:30 in the morning and ends, on average, at 10 or 11 at night, do teachers volunteer their time for extracurricular activities? Because teachers are giving people. We often give more to our students than we give to our own families and to ourselves. We want to pass on the passion we have for our own interests and hobbies. We want to pass on the love we have for music or the enthusiasm we have for sports.

Take a moment and think back to your own wonderful experiences in education. For most of you, the first thought in your mind is of a teacher who was passionate about something and passed it on to you. Passion cannot be legislated. What will be the first memory of today's Ontario students in the future? If Bill 74 is not withdrawn, I can guarantee you that it will not be of that excited gymnastics coach or computer club teacher. Bill 74 is a slam in the stomachs of Ontario teachers. It has certainly knocked the wind out of me. It is demeaning and totally unnecessary.

My Conservative MPP, Mr Wayne Wettlaufer, agrees that there are no problems with extracurriculars in the Waterloo region or in any riding except Mrs Ecker's. Then why Bill 74? Here is my reasoning: This government wants to change the rights of Ontario's citizens for good. They want servitude.

1620

Bill 74 states:

"The framework shall address assignment of duties,

"(a) on school days and on days during the school year that are not school days;

"(b) during any part of any day during the school year;

"(c) on school premises and elsewhere."

This means that teachers can be commanded to work seven days a week, 24 hours a day, hours away from their homes and families. As Ontario citizens, teachers have the right to fair and reasonable working conditions, not slave labour. Bill 74 strips teachers of the right to spend time with their families, to pursue personal activities and maintain healthy lifestyles. No Ontario citizen, no human, should be stripped of these rights. Without the withdrawal of Bill 74, all Ontario workers must be prepared for the government to legislate servitude.

Teachers are not guaranteed daily and weekly limits on hours of work as set in Ontario's Employment

Standards Act. This bill ensures that teachers no longer have control over their working conditions, which are currently fairly negotiated in our collective agreements. This legislation controls teachers' working conditions and prevents us from negotiating them in our collective agreements.

This government wants centralized power. This bill is not simply an attack on teachers; it is an attack on all Ontario workers. If the government can wield its power to override teachers' collective agreements for the second time, who will they conquer next?

Bill 74 takes the power from the citizens who have elected trustees and from the trustees themselves. Bill 74 dictates that trustees must follow direct orders from Queen's Park regardless of their constituents' needs. Punishments for disobeying the minister's and Premier's orders are outlined in Bill 74: a fine of 100% of their salary, dismissal and prevention from holding public office for five years. If this bill passes, the grade 5 "Aspects of Government" unit in the social studies curriculum will need to be rewritten. Ontario students will need to learn that they live in a dictatorship, not a democracy.

As an Ontario citizen, and hopefully a parent one day, I don't want to have angry, exhausted and beaten-down teachers in front of our children. I want vibrant, enthusiastic, intelligent and caring teachers, who want to give all of their energy to their students. I want them to have the energy and desire to run fabulous extracurricular activities voluntarily. This will not happen if Bill 74 passes third reading.

Canadians are already suffering a brain drain to the United States and many other countries. The teaching profession is not unaffected. We need the smartest, most energetic, most dedicated people to teach our children. Legislating the labour conditions currently in Bill 74 will guarantee that young people will not choose teaching as a profession. Many young teachers are actually leaving Ontario for the United States, Japan and Britain, and many are leaving the profession altogether.

Providing a quality education is the most important legacy we can give our children and the best reassurance for a prosperous future. Bill 74 has nothing to do with improving Ontario's education system and enhancing students' school experience, as it claims. Education cannot be improved by centralizing power, stripping away at collective agreements and legislating co-instructional duties for teachers. It is not too late to save Ontario's education system. The first step is the withdrawal of Bill 74.

**The Acting Chair:** Thank you, Ms Johnston. Thank you for making the trip all the way down to Ottawa. Your timing was perfect.

GORDON HOUGH

**The Acting Chair:** That takes us to Mr Gordon Hough, our next presenter. Good afternoon and welcome

to the committee. We have 10 minutes for your presentation.

**Mr Gordon Hough:** Good afternoon. You've heard a variety of excellent presentations this afternoon, and I can only promise to add to the variety; I'm not sure about the excellence. My name is Gord Hough. I'm a teacher at Vanier public school in Brockville. I've been a classroom teacher for 27 years. I'm currently teaching 25 seven- and eight-year-olds in a grade 2 classroom. I can empathize with the Speaker of the Legislative Assembly when we have the same problems in keeping order.

**Mr McGuinty:** But your group is better behaved.

**Mr Hough:** Well, I don't have the problems with truancy that he does.

I'd like to change the "I" to "we" here, as a last-minute replacement. Several of the members of our staff applied to come here, and one of them won the lottery, but she decided she couldn't do it at the last minute, and I understand now why she did that. It's just a little bit intimidating.

I would like to say that I represent the staff of 20 teachers that we have at Vanier school, and I would like to point out the atmosphere in which Bill 74 came down to us. Our school is marking its 25th anniversary. It's an open-concept school, which is different from a lot of the schools in our board in that all of the classrooms are arranged around a central library and computer centre. Pre-Bill 104, which amalgamated four boards into one, and Bill 160, we were a leader in our board in providing innovative programs incorporating the teacher-librarian and the computer teacher in a lot of the activities that all the children did. We were known in our board at that time—Leeds and Grenville—for doing a lot of interesting and different things with the children.

Since the passage of Bill 104, as I mentioned, our school has become just another site, one of the 100 spread from Pakenham to Cornwall and from Gananoque to Hawkesbury. We have a rather large area to cover. I make that point because I think we're dealing with that loss of community and we're working hard to communicate and get best practices known in our new board of Upper Canada. So I think we are dealing with that.

We're having difficulty dealing with the loss of staff, however, at our school. Over the past two years, we have lost a total of two teaching positions, which does not sound like a great deal, but in a staff of 20 it has a big impact.

By applying the government formula, our classes fit into the prescribed 25-to-one rather nicely. They range from 27 in intermediate to 22 in the primary grades. We have staff for French. We have been cut in special ed, and that's unfortunate because we are trying to implement an early literacy plan, trying to get all children by the time they reach grade 3 to be reading at their grade level. We're trying to implement that with fewer staff.

We don't have the staff now to provide library and computer support. It's just not there. The flexibility isn't there in the funding formula to do that. We could, of course, increase class sizes. We could go above the 25-



to-one in the classes and then that would provide the flexibility, but again, we would have to rob Peter to pay Paul. Someone has to sacrifice to provide the service. We can't provide the level of service that we used to and that we were known to and that was expected from our school. But I think we can handle that. I think we can work through that and we can find ways to solve that.

1630

We have an active school committee and council. Unfortunately, they spend most of their time discussing and being involved in fundraising. Educational issues do not get much of the agenda. We have many parent volunteers whom we're becoming more reliant on. Parent volunteers are wonderful, but we're coming to rely on them more and more. The fact that they're volunteers means you can't always count on them being there and it gets tough sometimes.

We are implementing the new curriculum, despite the fact that we only have four PA days. That means that interviews, planning, training, all of that happens after school and over the summer. But it is happening. We're able to handle that.

We are administering the grade 3 and the grade 6 tests. I think Vanier school is doing very well in that regard, in terms of the levels being up. The only ones who seem to be suffering are some of the children who can't seem to handle the pressure that this testing environment creates for them.

We're finally getting comfortable with the new standardized computerized report cards, despite the fact that they have been changed a few times. We're finally coming to grips with how to deal with a teacher who manages to lose all of their report cards in a single keystroke. We are learning to handle that.

We are providing as many extracurricular activities as we can. We recently sent out a school report card to parents, and it indicated that parents were satisfied with the level of extracurricular activities.

To sum up and to get to the point—I had an example. I said we're busier than the Minister of the Environment during question period. I don't know if that's appropriate with Mr McGuinty here. We are busy, and we feel much under attack. To our staff, Bill 74 is perceived as unnecessary, unwarranted and overkill. It seems that it's aimed at solving problems in Windsor and Essex and Durham.

In teaching grade 2, I like to make pictures with words, and I enjoy reading. I remember reading coverage of the hearings in Barrie. One gentleman said it's akin to killing a fly with a shotgun. I do remember that. That's the perception of Bill 74. I had an example that was much more graphic. I thought it was akin to removing a wart with a chainsaw—very effective but a lot of collateral damage.

If I applied the principles of Bill 74 to my classroom, when one of my children didn't complete his work on time, I would have to keep the whole class after school. Parents—the trustees in this case—would justifiably be upset about that, but they couldn't appeal or object

because they would be subject to a \$5,000 fine and loss of their parenting rights for the next five years. That may be an overly simplistic example, but I thought it was worth a try.

As a staff, we feel strongly that this bill is fundamentally wrong and an unnecessary intrusion at this time. The teachers on our staff, when we discuss this, are unanimous in saying that all we want to do is be allowed to do our job. I think most of them are happy doing that. It is becoming more difficult, but we want to be able to just do our job.

We welcomed the EIC recommendation that there be a period of stability, a time that we could implement the many changes in education that have come upon us in the last few years. I urge you, with whatever power you may have, to please find a way to back off on this bill, find another way to resolve the issues. Before battle lines are drawn or the lines are drawn in the sand, find some way that we can all get out of this with some dignity. I would really rather spend my summer preparing for my class in September than preparing for a lot of the alternatives that I've heard discussed by my colleagues. Thank you very much for allowing me to do this.

**The Acting Chair:** Thank you, Mr Hough, and you're bang on your 10 minutes. We appreciate your driving up to give us your views here this afternoon.

LISA CHOLOWSKI  
SALLY DEWEY

**The Acting Chair:** Our next presentation is Ms Sally Dewey.

**Ms Sally Dewey:** And Lisa Cholowski.

**The Acting Chair:** You're both welcome to the committee. Come on up. We have 10 minutes for your presentation.

**Ms Lisa Cholowski:** I'll be speaking first. Honourable members and Chair, I would like to thank the committee for allowing me the opportunity to speak against Bill 74. My name is Lisa Cholowski. I am a classroom teacher at North Dundas District High School. I'm a former graduate of the school and became a teacher because of outstanding teachers I had. I am a graduate decorator, I'm a dance supervisor, I'm a hall supervisor, I'm a carnival day supervisor and I am a staff adviser for the student newspaper, the Devil's Advocate. I too am passionate about teaching.

As a result of Bill 74, I have been declared surplus. By instructing principals to schedule an extra course, the school board has been forced to reduce the number of teachers by 10%. Eighty-four teachers like myself will not be in the classroom this September.

Bill 74 proposes to increase education quality and enhance students' school experience. However, having reviewed the bill's content and compared the legislation to the current system in place, I cannot see that it will mean any real improvement to the quality of education. In fact, I see the opposite.

I currently teach three classes—a total of 65 students. Twenty-five of those students are in my grade 9 academic English class. It is a new ministry course designed to provide students with a solid foundation in reading, writing and grammar. Students learn to write essays, read both a Shakespeare play and a novel, and as well complete weekly writing assignments. I devote an average of three hours a day to planning and marking the work generated from 25 enthusiastic, eager students. Add to this the preparation and marking of two other equally demanding courses and you will see why I call it a labour of love. Many evenings I would love to relax but I know my students are counting on me. Besides class work, I regularly contact parents and help students in need. Each day is full and each day is different. I cannot attach a number value to the amount of time I devote to teaching.

Bill 74 mandates the addition of another class. I question whether this adds to the quality of education. How can less time to prepare, less time to help students and less time to mark the work the students do equate to quality? In my opinion, I would not be able to provide the students under my care with the energy if I was required to teach four classes and then coordinate extracurricular activities. And I say “if” because, as I mentioned, I am surplus.

I take the liberty of speaking on behalf of the other 84 surplus teachers when I urge you to defeat Bill 74. Allow us to stay in the classroom. Allow us to continue to devote all of our energies willingly to a profession we love. Thank you.

**Ms Sally Dewey:** My name is Sally Dewey. I also am a classroom teacher in the Upper Canada District School Board and I'm here to say that I feel Bill 74 is against democracy as well as quality education.

I'd like to take issue with one comment that the Honourable Ms Ecker made on Monday in the Legislature, indicating that this legislation recognizes that teachers do much more than teach in the classroom. Nowhere in this bill does it seem to me there is mention of the fact that teachers already put in a staggering number of hours preparing classes, marking assignments and writing reports. Nowhere in it is there mention of the fact that teachers already volunteer their time organizing clubs and events for which the government provides absolutely no funding. Nowhere in it is there recognition of what a teacher does. There is a great deal in it, however, about how teachers are now going to be forced to do these things 24 hours a day, seven days a week. You've heard it many times today.

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There is a great deal in it about how board members and trustees will be punished if they even vote—and it does say “vote”—for a policy which is against the designs of the government. Not only will locally elected trustees be fined the total amount of their honoraria, not only will they be removed from their elected positions, but they will also be barred from running for any municipal office for five years, and that's just for voting for local concerns, as any good elected official would.

There is a great deal in it also about how principals and boards can choose to assign any amount of duties to a teacher regardless of their contract or their rights as employees, because—and this is from the bill—subsection 86(1) of the Labour Relations Act does not apply to prevent the board from altering terms and conditions of employment or rights, privileges or duties of the employees.

You cannot say to me that a principal or a school board won't insist on infringing on my right to my personal time. Already our school board is breaking our legally negotiated contract by assigning us an extra class come September. This is why my colleague does not have a job this fall. Already our board is assigning what is the regular number of courses to teachers who are in positions of added responsibility—our former department heads. However, this lessened load is also accompanied by lessened pay, because the maximum is now based on the 6.67 number. Now we have teachers who are leaders and mentors to staff and students in our schools being docked pay for taking on the job of implementing the curriculum. If the board is willing to break the law now, with a mere sniff of this bill coming its way, what do you think it will be willing to do when this bill has been passed?

Mike Harris does not want teachers to spend more time with students. He wants us to spend less time with more students so he can eliminate 10% of the teachers in Ontario and save money. The students will not benefit in this situation. If he really cared about our students' education, he would have applauded the timetabling of remedial sessions in boards like Thomas Valley and York Region.

I plead with you: Please, withdraw this bill. This is not about making teachers coach a team. I know that if this bill is passed, I am one of many teachers who will no longer be teaching in an Ontario school in September, not because I will be surplus, like my colleague, but because I cannot in good conscience teach in Ontario if this legislation is passed.

I would like to conclude by submitting a petition to Mr McGuinty. Would you please present this in the House? “We, the undersigned, petition the Legislative Assembly of Ontario to hold more than the current one and a half days of public hearings on Bill 74.”

**The Acting Chair:** Thank you both very much. We appreciate you coming forward.

ROB UMPHERSON  
MARY LYNN PAULL

**The Acting Chair:** Our next presentation will be from Mary Lynn Paull.

**Ms Mary Lynn Paull:** And Rob Umpherson as well, Mr Chair.

**The Acting Chair:** Perhaps you can introduce your colleague for the purpose of Hansard.

**Ms Paull:** This is Rob Umpherson.



**The Acting Chair:** Thank you for joining us here this afternoon. We have 10 minutes for you to divide as you see fit.

**Ms Paull:** Rob is going to begin.

**Mr Rob Umpherson:** Good afternoon. My name is Rob Umpherson and I am from Perth. I am here today to voice my opposition to Bill 74, not because it's unfair and not because it will make the extracurricular activities I already do mandatory. The extracurricular focus, to me, is just a diversion. I am here today because Bill 74 is unjust and it is wrong.

Bill 74 has been masterfully written. It is the epitome of control.

Control issue 1: The definition of co-instructional activities is hazily worded. It includes lists of everything we have been doing for years, but it's not limited to those. It is a bottomless pit.

Control item 2 you have heard numerous times: Any time of any day throughout the school year.

Item 3 gets more severe: "... no matter relating to co-instructional activities shall be the subject of collective bargaining nor come within the jurisdiction of an arbitrator or an arbitration board."

Finally, control item 4: Both the Minister of Education and the Lieutenant Governor in Council have exclusive jurisdictions which are not "open to question or review in any proceeding or by any court." What I would like to know is, when did the courts of Ontario close to justice? Have I missed something?

I recently sent a letter to the editor of my local newspaper and to Mr McGuinty's office. My father was not pleased with me. He told me that the unions were brainwashing me, that they were fearmongering. He assured me that even though the bill seemed harsh, the Regulations Act would ensure that the bill was enacted fairly. Though it did little to comfort me, it got me thinking.

After acquiring so much power through Bill 160, and more control if Bill 74 passes, this government still seems rushed. Then I saw it, right in this bill, a section that states, "The Regulations Act does not apply to anything done under any provision of this part, with the exception of ..." which happens to pertain to the minister's right to make regulations respecting the making and filing of complaints.

What does the bill have? This bill has a framework which will place teachers on call 24 hours a day, seven days a week, 10 months a year. That you've heard. It has provisions to permit residents of a community to "exercise the rights of the board." I know what I think that means but I'll leave that up to you.

It even has conditions which allow the Minister of Education to take control of the operation of the school board if, "in her opinion ... the board is acting contrary to her wishes, orders," or whatever.

Accountability: I went to my Funk and Wagnalls dictionary to double-check this. To be accountable means "to be liable to be called upon to explain, to be responsible." I have always been accountable to explain my

course content, the sequence, the teaching style and evaluation methods. Unfortunately, this government seems to be using the term "accountability" to mean "satisfying whims." Shouldn't accountability be a two-way street? Shouldn't the parents and the students share, along with the teacher, in this accountability for learning?

I can't help but feel that this bill is going to promote a belief that educators have now added "social convenor" to their job description. A student of mine who participated in cross-country in the fall, track in the spring, had the lead in the school musical, participated in a community theatre production last fall—which was also directed by two teachers—is on student council and is currently playing noontime soccer had the audacity, when a fellow student asked her why our school wasn't having a fun fair when the school next door was, to say, "The teachers won't do it." How can we draw a line between professional obligations and servitude?

Our province is not perfect. I know that. However, I fail to see how this bill will bring improvements to education or to accountability. I see a bill that controls unjustly. I see a bill that has taken power away from the courts and from our elected community representatives. I don't know of any civilized country that puts the power of governing officials above that of the courts. I don't want a government that decrees that its decisions are not open to question or discussion and are not within the jurisdiction of any court. If the Minister of Education was indeed telling the truth when she said that this bill was written simply to ensure that extracurricular activities could not be withdrawn during contract negotiations, then she will withdraw Bill 74 and she will replace it with a simple amendment to the existing Education Act.

That concludes my part. Mary Lynn?

**Ms Mary Lynn Paull:** Hi. I'm Mary Lynn Paull. I teach grade 3 in Perth. I am also the mother of a three-year-old son. I have taught in both the day care system and the education system.

Trust, respect and a sense of professionalism are just three of the many elements being misused under Bill 74. Trustees, teachers and many others who are involved in the education system are greatly outraged by the possible effects of this bill. All who work with children or for children realize the rigorous demands of being involved in education. They willingly accept these demands and challenges because they believe children have the right to a decent education, which includes in-class and out-of-class activities. They work towards fulfilling this belief with determination and dedication and they voluntarily work towards bettering our system of education. This bill is telling these dedicated souls that this is just not enough and that the powers that be are willing to bypass at all costs to force them to do even more.

I personally can't see how much more time can be used unless this bill is also going to create more hours in the day or more days in the week. These professionals are already making high sacrifices to ensure the quality of our system. I am merely one teacher in thousands, but for

me, the passing of this bill would have a traumatic effect on myself and my three-year-old son.

First of all, my time as a parent is already significantly reduced by my profession. My son suffers a great deal from the hours I must keep in order to provide my students and their parents with quality education. The enforcement of this bill would only serve to increase this.

Secondly, he also will be entering school in the fall, and if I must adhere to the strict guidelines of this bill I will not be able to do my duty as a parent in the education system. The home-school connection is essential to the success of a child's education and has been included in our education curriculum. In the beginning of each of the documents, teachers are strongly urged to get parents as part of this system. How can I do both? How can I be a parent and be part of that system, as well as teach my students and adhere to the guidelines?

Thirdly, I am, by my own choice, a single mom, so who will care for my child while I am away enriching my school's extracurricular program during evenings and weekends? These costs do not fall under regular child care subsidy regulations, not to mention my absence from my child's life.

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Please don't take this as a case of personal whining, because I am only trying to demonstrate how this bill will affect two people of many.

We are indeed professionals, just as the politicians who wish to pass this bill are. We also deserve to be respected and trusted, as they wished to be when they were elected. However, this bill puts forth a strong message that we are not to be trusted. It says the education community cannot enrich the lives of students without being legislated to do so. We are doing this already. In fact, we are doing this before, after and during school, and in our communities.

Lastly, this bill also attacks the collective agreements. Teachers and many others, including government officials, have worked diligently to create these documents. They are important to the health and welfare of educational professionals as well as parents and students. Everyone needs to be protected from power-hungry individuals. These agreements ensure the equality and rights of all involved. If such a bill is passed and these collective agreements are thrown to the wayside, we will enter a sweatshop mentality, where individual rights are continually and horrifically abused.

I thank you very much for giving me the opportunity to speak.

**The Chair:** You've just taken the full 10 minutes. Thank you both for coming this afternoon.

PAUL BULLOCK

**The Chair:** The final speaker this afternoon is Mr Paul Bullock. Good afternoon, Mr Bullock.

**Mr Paul Bullock:** Good afternoon. Thank you very much for the opportunity to speak about Bill 74. I'm a graduate engineer and I have spent time in industry, so I

bring a slightly different perspective. I do today, though, feel comfortable just talking as a classroom teacher. I don't feel comfortable talking about the politics involved with this bill, but I'd like to share with you the impact it will have on me in the classroom. I'd like to just take a minute to walk through my day.

I arrive at school at 7:45 and teach until 2:20, but I never leave the building until at least 4:30. That time is spent with students, getting things ready for the following day, repairing equipment. After supper, I spend at least two and a half hours in lesson preparations for the next day. When I add up the hours during the week, I conservatively say at least 50 hours; my wife, sitting back here, says that's too conservative, that it's usually a lot more hours than that. I haven't mentioned that we spend many hours on committees and helping students outside of school hours, such as with Skills Canada trips. In addition, every year I take a practising student teacher from Queen's University, and that involves more work. But I feel, as a professional, that someone helped me when I started teaching, so I like to help them. I think you can believe me when I say that every night I go home tired.

In addition, I've had the privilege of presenting two workshops this spring to help other teachers, because I have an innovative way of dealing with certain courses. In the summer, I teach additional basic qualifications at Queen's University to teachers, and this August I've signed up for a workshop to help me teach computer engineering. When you look at it, it's a 12-month job.

When I deal with teachers from Queen's University entering the profession, I explain to them that it's not a job, it's really a way of life—and it's a way of life that I enjoy. I think spending all those hours is just typical with teachers.

Next year, you're asking me to teach at least a half-credit extra. You're asking me to arrange weekly TAP, teacher assistance program, meetings with students. You're asking me to use the new assessment and evaluation procedures in grade 10. You're asking me to use the new report card, which I support because it's anecdotal, but it takes a lot of extra hours. I believe in it, but again, it is a lot of extra work. You also ask me to face the possibility of being assigned a co-instructional activity or an activity outside of school hours.

The net result? I have to survive in this job, and that means that I will probably mark fewer assignments. I'll have to give fewer tests and other forms of evaluation. Obviously, I'll have less time to spend preparing lessons. I expect at night to be more tired. We deal with a lot of troubled kids, and you'll have less capacity to deal with them. I don't look forward to having the privilege of being able to suspend a student for a day, but that's in the works too. I feel that I may have to decline taking on a student teacher next year. Again, we have to survive in this job.

I think everyone in this room knows who the real losers are with Bill 74: partially the teachers, but really it's the students who lose.



I would have more respect for this government if they would tell the public the truth, and that is that this legislation is meant to save money, not create a better environment for learning. We all know next year there will be fewer teachers with more students.

On a personal basis, I have a son in third-year university and a daughter starting her first. My daughter, Jennifer, talked about being a teacher all through high school. She lives with a teacher so she knows the reality, and with this new legislation that's no longer in the cards. The option has been removed. I ask you, what bright young person would want to enter a profession with such a negative working environment? I look at industry; I look at how they encourage people. I now look at education and it seems all there are, are roadblocks. This bill, in my mind, doesn't solve problems, it just creates new ones.

Bill 74 does not make common sense. I have a distinct feeling that, in your heart, everyone around this table knows this. What I ask is that you start over, involve the public, involve the students, involve the trustees, involve the administration and involve the teachers. I have not been a part of this bill. I don't think any of the people I deal with have. Please involve the players in the process of change. Thank you very much.

**The Chair:** Thank you, Mr Bullock. There is about three minutes for questions, if you're prepared to entertain them. Is Mr Marchese gone?

**Mr Gilchrist:** He asked me to indicate, if it came up, that both of his daughters are celebrating their birthdays today and unfortunately he is on a flight that prompted him to leave just a few minutes ago. He apologizes for having to scoot out.

**The Chair:** Does a government member wish to ask a question?

**Mr Beaubien:** I have a question. I've sat on the hearings all day today and Wednesday morning. We keep hearing about Bill 160, Bill 104, Bill 74. During the discussion on Bill 160, 10,000 teachers were going to lose their jobs. Today I hear from some people that there's a lack of teachers, that some teachers are going to leave the profession. Yet I attended a graduation two weeks ago at Lakehead University, where my daughter just happened to graduate. The graduating class in the education field this year was two and a half times what it was the previous year. It will continue doing that this year, and there are other facilities doing this across the province.

Could you clarify the situation? I haven't seen the 10,000 teachers lose their jobs. Yes, there might be a shortage of teachers, I agree. I'm very confused with the message that I'm getting from the profession at this point in time, but especially over the past three years.

**Mr Bullock:** I would answer that by saying that in the last couple of years, sure the job has got a little bit harder, but I don't think we've seen the impact of this

Bill 74. If morale goes down, why would you want to enter the profession? We seem to be under a siege mentality. I'm an upbeat person, I want to be positive with the students, but I look at the siege mentality and I look around at my colleagues, and they're questioning, "Why did I enter this profession?" It may be that someone stays in teaching five years, gets burned out, then leaves. I've enjoyed it—I've been teaching for over 20 years—but I wonder. I'm looking forward just to making it through with these new changes. We had teachers on our staff who had to teach four out of four for a semester. Some of my colleagues tell me they will not do six and a half. They will take less pay and do six, because it is just too hard on you physically. The stress you take is not a physical one, it's mental. You're performing with students all the time and they bring their problems to the classroom. So I think you may have a much bigger turnover, and again you've lost some expertise. I don't know if I've answered you, but I really appreciate your question.

**The Chair:** There's about one minute, Mr Kennedy.

**Mr Kennedy:** Thank you very much, Mr Bullock, for your presentation. It was very effective in letting us know what lives we're affecting. That's what this bill is supposed to be about. I wish we had more time to delve a bit. I'm happy to satisfy Mr Beaubien about the numbers: We have lost about 6,500 or 7,000 teachers. Boards have been creative. In about 70 out of 72 boards, they got creative about ways to have more teachers working, and that too is what this bill is about. Bill 74 would then bring about some of the further predictions, which is fewer teachers. It's the government insisting on the fewer teachers without looking at the real environment that it would create, the learning environment. We've heard all through today, and I appreciate in your, I think, very credible way of finishing off for us, that there is no way for us as legislators to push a button in a plush chair in Queen's Park and make that happen. Speaking for myself, we should feel appropriately helpless about what we can actually do to influence that environment. We can put the right people together, hopefully in the right conditions, and then the learning will take place. If we take a different view of that, I think we're kidding ourselves.

**Mr Bullock:** Absolutely. Morale you can't legislate.

**Mr Kennedy:** Thank you very much for your presentation. Thanks to everyone today.

**The Chair:** Thank you, Mr Bullock.

I'd like to thank all of you for your patience this afternoon and for taking the opportunity to come and address us. This meeting is adjourned until 3:30 of the clock on Monday, when committee will be giving clause-by-clause consideration to the bill. Thank you for coming this afternoon.

*The committee adjourned at 1703.*







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## Legislative Assembly of Ontario

First Session, 37<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 37<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 12 June 2000

# Journal des débats (Hansard)

Lundi 12 juin 2000

## Standing committee on justice and social policy

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Monday 12 June 2000

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Lundi 12 juin 2000

*The committee met at 1601 in room 151.*

## EDUCATION ACCOUNTABILITY ACT, 2000

LOI DE 2000 SUR LA RESPONSABILITÉ  
EN ÉDUCATION

Consideration of Bill 74, An Act to amend the Education Act to increase education quality, to improve the accountability of school boards to students, parents and taxpayers and to enhance students' school experience / Projet de loi 74, Loi modifiant la Loi sur l'éducation pour rehausser la qualité de l'éducation, accroître la responsabilité des conseils scolaires devant les élèves, les parents et les contribuables et enrichir l'expérience scolaire des élèves.

**The Vice-Chair (Mr Carl DeFaria):** The standing committee on justice and social policy is called to order. We are considering Bill 74, the Education Accountability Act, 2000. We meet this afternoon for clause-by-clause consideration of the bill.

**Mr Gerard Kennedy (Parkdale-High Park):** Mr Chair, on a point of order.

**The Vice-Chair:** May I finish? Before we begin I'd like to remind all members that by order of the House dated Wednesday, May 31, 2000, at 4:30 pm today those amendments which have not yet been moved are deemed to have been moved. The Chair is then required to interrupt the proceedings, regardless of where we are with the amendments, and at that time there shall be no further amendments or debate. The Chair will put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all remaining questions have been put, and taken in succession. The Chair may allow only one 20-minute recess, if requested pursuant to standing order 127(a).

**Mr Kennedy:** Mr Chair, I refer you to the orders of the day just quoted. I believe you have there, as Chair, an inherent contradiction. In the clause previous to the one that you just related to the committee, it finishes "and that the committee be authorized to meet beyond its normal hour of adjournment on that day until completion of clause-by-clause consideration." In other words, in the primary charge that we have from the Legislature, it says we would meet on certain days and we would have clause-by-clause consideration of the bill, and then we'd be authorized to meet beyond our normal hour of ad-

journment "until completion of clause-by-clause consideration."

Mr Chair, I put to you that your duties as a Chair require you to follow this interpretation as opposed to the following clause, the reason being that your role as Chair is to provide for both the status quo and for further debate and discussion. We are clearly authorized within this notice of motion to continue until the completion of clause-by-clause consideration. The fact that there is another clause there I agree is problematic, but I think it lends itself to a ruling by the Chair, which I would request be in favour of continued debate, particularly given the significant and substantial nature of the amendments that we have before us.

**The Vice-Chair:** Mr Kennedy, if you look at what the provision indicates, it is at that time the question shall be put. If we need more time to proceed with all the sections, the time may be extended. That doesn't mean that the question would not be put once we reach the 4:30 time. We may need to go beyond 6 o'clock in case we don't approve or deal with all these sections and amendments.

**Mr Kennedy:** Again, Mr Chair, I rely on your interpretation. Rather than be argumentative, I hope that you are taking into consideration that a reading of this is that there is one set of instructions which talks about completion of clause-by-clause consideration and another set of instructions which says at 4:30 clause-by-clause amendments shall be put, and so forth. I understand what you are saying, but it is vital, for us to be able to have consideration of this bill, that that contradiction be fully considered. I would again appeal to you for that, because in the alternative, we have 20 or 25 minutes for actual substantive discussion of the amendments.

**The Vice-Chair:** Thank you, Mr Kennedy. Shall we proceed then? I think that all members have the amendments in front of them. There are some amendments.

**Mr Kennedy:** Just to be clear then, Mr Chair, you are ruling that there is no contradiction?

**The Vice-Chair:** No, I don't see a contradiction. I agree with you that if we need more time we may extend the committee time to past 6 o'clock, but that's simply to go through all the sections. We have to go through all the sections, but we'll start putting the questions at 4:30.

**Mr Kennedy:** OK, Mr Chair. I've already made my point.



**The Vice-Chair:** Let's deal with section 1 of the bill. Are there any comments or questions with respect to section 1 of the bill?

**Mr Joseph N. Tascona (Barrie-Simcoe-Bradford):** We have amendments to section 1, Mr Chairman.

I move that the definition of "co-instructional activities," as set out in section 1 of the bill, be amended by adding "but does not include activities specified in a regulation made under subsection (1.2)" at the end.

**The Vice-Chair:** Are there any comments or discussion?

**Mr Rosario Marchese (Trinity-Spadina):** Just a question of the member. Could he just explain what the amendment implies?

**Mr Tascona:** It amends the definition with respect to "co-instructional activities," which is set out in subsection 1(1), to permit the ministry to exclude activities from the definition of "co-instructional activities" by regulation. In essence, it grants the regulation-making ability to deal with co-instructional activities to clarify it, where necessary.

**Mr Marchese:** Do I understand that to mean the minister simply can, by regulation, do anything?

**Mr Tascona:** No. If you read the language, it indicates "but does not include activities specified in a regulation made under subsection (1.2)." So it narrows down, in terms of clarifying, what is meant by "co-instructional activities" if in fact there is a difficulty in terms of its implementation. As you know, it's defined in the legislation.

**Mr Marchese:** Right, (a), (b), (c), you mean. "Co-instructional activities" as defined by (a), (b) and (c), "and includes but is not limited to activities having to do with school-related ..." So your amendment does what, in clear language?

**Mr Tascona:** I think I told you in clear language.

**Mr Marchese:** That's great. It's as murky as before, or worse, but that's great.

**Mr Tascona:** If you look at the act, subsection 1(1), this is what we're dealing with, this provision. "Co-instructional activities" is defined. What we're doing, if you read this, is adding to this particular provision the language "but does not include activities specified in a regulation made under subsection (1.2)." So it's narrowing it down. The definition indicates what "co-instructional activities" mean, and there are regulatory powers to deal with indicating what activities would not be included. That's done by regulation.

**Mr Marchese:** I'll be opposing it anyway, so it doesn't matter. Moving on.

1610

**The Vice-Chair:** Mr Marchese, I'd just like to remind you, if there are sections that you are more concerned about, it's better to move on to those sections so that members of the committee have more time to comment on those sections instead of spending so much time on one section and not being able to comment on other sections.

**Mr Marchese:** I appreciate it, but since we're going to be able to sit beyond the time allotted to get clarity on things, it's good to start where you need to.

**The Vice-Chair:** Any other comments?

**Mr Peter Kormos (Niagara Centre):** As of right—yes, Chair, as of right—read the rules.

**The Vice-Chair:** All right. Go ahead, then, Mr Kormos.

**Mr Kormos:** Thank you kindly.

I have concern about every section of this bill and so do thousands and thousands of people in Niagara and I trust across the province. I simply wanted, without being lengthy, to point out that the Chair is acknowledging that the time closure motion does not provide adequate time for a full discussion around the bill. I appreciate the Chair's acknowledging that, because I know I didn't support the time allocation motion. I think you did, and now you're acknowledging that the time allocation motion indeed was inappropriate because there isn't sufficient time, which is why you're telling Mr Marchese that he's got to speed it up and let whole sections pass without any debate. Shame.

**Mr Tascona:** If I can speak, Mr Chairman, I'm quite willing to respond as time permits, as Mr Marchese wants to proceed.

**Mr Marchese:** Sorry, Joe, you said what? You're not going to respond?

**Mr Tascona:** If you've got another question I'm ready to answer it.

**Mr Marchese:** No, that's OK. We'll just go one by one.

**Mr Tascona:** Thank you.

**Mr Marchese:** My pleasure.

**The Vice-Chair:** Any other comments on this amendment?

Shall the motion carry?

**Mr Marchese:** I'd like a recorded vote. To facilitate, could we do everything on a recorded vote so I don't have to call out it on a recorded vote every time?

**The Vice-Chair:** That's fine, Mr Marchese.

Shall the section carry?

### Ayes

Beaubien, Coburn, Elliott, Tascona.

### Nays

Kennedy, Levac, Marchese.

**The Vice-Chair:** Let's move to government motion number 2.

**Mr Tascona:** We have another motion, Mr Chairman, dealing with subsection 1(1.2).

I move that section 1 of the bill be amended by adding the following subsection:

"(2) Section 1 of the act, as amended by the Statutes of Ontario, 1997, chapter 3, section 2, 1997, chapter 22, section 1, 1997, chapter 31, section 1, 1997, chapter 43,

schedule G, section 20 and 1999, chapter 6, section 20, is further amended by adding the following subsection:

“Regulations: co-instructional activities

“(1.2) The Lieutenant Governor in Council may make regulations specifying activities that are not co-instructional activities.”

**The Vice-Chair:** Are there any comments?

**Mr Dwight Duncan (Windsor-St Clair):** Could you outline some of these you might see, items you might cover by regulation that are not co-instructional activities, some examples?

**Mr Tascona:** For example, hallway supervision.

**Mr Duncan:** Any other examples?

**Mr Tascona:** That's one I can come to right now.

**Mr Duncan:** So you don't know of any others?

**Mr Tascona:** I'm giving you an example at this point.

**Mr Duncan:** I'm asking you, do you understand the impact of this amendment? If you can't cite examples, do you understand the impact of the amendment? You're the parliamentary assistant.

**Mr Tascona:** What the amendment deals with is giving regulation powers. The amendment specifically indicates that the regulation will be made by the Lieutenant Governor in Council. This is regulatory authority. The definition which we have for co-instructional activities clearly specifies what a co-instructional activity will be considered to be. What we have in here is the power through regulation if in fact there is an activity that will be excluded from the activities. I gave you one example.

**Mr Duncan:** So you have one example. Are there any other examples that you're aware of?

**Mr Tascona:** Not at this time.

**Mr Kennedy:** I'd like to make a point, Mr Chair, if I could. I think it's an important point raised by the member for Windsor-St Clair, because the “co-instructional activity” definition is open-ended. We're dealing with this in reverse here, where the power that the parliamentary assistant is recommending we confer now to the minister—at least the definition has the virtue of being stated, of being clear, of having examples of what it means. Now the minister wants the power to do whatever she or he subsequently would, without the scrutiny of Parliament whatsoever. I think that's what is at stake. I just want to iterate that this is a concern in and of itself. It would have been better today if we knew from the government what precisely they have already determined does not fit in with co-instructional activities and how they intend for those activities to be done. That's a policy consideration, but that list would have been helpful for us today.

**Mr Tascona:** There is no list.

**Mr Kennedy:** I just assume that if we're being asked to pass something, it has a specificity on the government's intentions.

**Mr Tascona:** If you read it, Mr Kennedy, I think it's very specific in terms of what co-instructional activity is, in terms of what that is considered to be. The intent is to clarify, narrow down, if in fact there's an activity that

doesn't fall within that definition of “co-instructional activity.” I can't predict the future as to what would happen out there in the school boards in terms of how they apply this, but if they do need clarification, that would be the intent of this particular provision. I think it's very clear in terms of how it reads.

**Mr Kennedy:** But you are asking us, just for the record, to give the minister basically blanket authority to affect this definition any way that she, or possibly he in the future, would see fit, and you're not prepared to divulge to us how that might be done.

**Mr Tascona:** You seem to be suggesting there's something there, and there's not. If you can understand what is in front of you, you can understand that we put together a definition—

**Mr Duncan:** You couldn't answer his question; you're the PA.

**Mr Tascona:** If I can speak, Mr Duncan, we put together a definition of what are considered co-instructional activities. We put in a provision that will permit clarification if in fact one of these activities that occurs under the school boards—and I can't predict what will happen out there. It would allow the minister to make the clarification; it's the means to do that through regulation. That's what it means.

**Mr Dave Levac (Brant):** From your last statement what you are saying, though, is that you're predicting there will be items that are not co-instructional. So if you can say you don't know what they're going to be, you're now predicting there will be some, and that's the purpose of the questions.

The second part to that is, what's going to happen about these items if they're deemed not to be co-instructional? What becomes of them inside the educational setting? For instance, the monitoring of halls or the other items.

**Mr Tascona:** They wouldn't be considered co-instructional activities.

**Mr Levac:** They would be?

**Mr Tascona:** If you read the section it's very clear what co-instructional activities are intended to be. If there's an issue with respect to that, the provision that we've already passed would permit the minister to deal with that. I would quite frankly put it to you that certainly it depends on how the boards proceed. It can only work, I would submit to you, for the teachers, by excluding certain activities as co-instructional activities. It's essentially a safety net for teachers. The language is very clear. I really don't understand what your problem is with the language and understanding. I think you fully understand the intent but you want me to predict the future. Perhaps there may not be any problems.

**Mr Kennedy:** In fact, we are looking for specific examples of a power the minister wants to use. We have very limited examples of what that is and the government, consistent with its approach to this bill, has the power, or takes the power, anyway.

As for it being to the benefit of teachers, there is no reason for us to believe that this third category that could



exist between co-curricular and classroom time couldn't be to the detriment of teachers in some future iteration. In fact, without the benefit of any specificity from the ministry, that leaves it wide open to interpretation as to what might get put on the shelf there and what its implications are, because it's clearly not forthcoming today.

1620

**The Vice-Chair:** Any other comments?

Mr Tascona has moved government motion number 2. Shall the motion carry? All in favour? A recorded vote.

### Ayes

Beaubien, Coburn, Elliott, Tascona.

### Nays

Kennedy, Levac, Marchese.

**The Vice-Chair:** Carried.

Shall section 1, as amended, carry?

**Mr Marchese:** No, we're going to debate it, right?

**The Vice-Chair:** You want a debate?

**Mr Marchese:** Yes, we need to comment on it.

**The Vice-Chair:** Are there any comments or questions on section 1, as amended?

**Mr Marchese:** Yes, on the whole section.

We had two hours in Barrie and a whole day in Ottawa, and the protestation was against all three aspects of the bill: first is the co-instructional activities, the extracurricular stuff that people did voluntarily; second is the extra period teachers will be required to teach, thus firing people; third is basically decapitating the heads of boards of education—effectively, trustees, but literally all the staff who may decide they are in disagreement with the directives of this government.

On section 1, many came in front of the committee to protest what this government is doing. The majority of people said, "You can't mandate volunteerism." That's what the activity was—it was voluntary. Some 99% of the people across Ontario are doing it. Boards are doing it. Teachers are doing it voluntarily. Even in the riding of the minister, we were told by people who know that they're doing it there as well. Contrary to the popular belief that no one is doing it in boards where she is the member, we are told that teachers are doing extracurricular activities in schools and are doing it there as well.

What problem are we trying to fix? That's the question people were asking, because there isn't a problem. It's a voluntary activity, meaning people do it because they feel passionately about what they do, whatever it is they volunteer for. If all of a sudden you're going to mandate that activity, people said: "It won't happen. The programs will be lost. Teachers simply won't do it. If you force them to do it and their heart is not in it, the programs will die."

The good thing is that your government heard the message from everyone across Ontario who has commented on this, through the e-mails we're getting and, through the hearings the opposition parties held separately because you refused to hold yourselves accountable.

You have listened somewhat. You're not forcing teachers to do it any more. But what you're saying to them is: "It's in abeyance. It's in law. It's there to be used if we, as a government, decide to use it. It's there as long as you good men and women teachers behave, but as soon as you misbehave, it will become law."

What you have in the bill at the moment will in effect become law should teachers decide to misbehave, as they did in Durham, where you imposed a contract on the teachers, forcing them to teach an extra period. The teachers said: "Given the level of exhaustion and the level of stress we are experiencing, and given that we are unable to teach effectively, qualitatively, the way we want, many of us don't have the time any longer to volunteer our extra time after school." Many decided voluntarily to withdraw that service on the basis of an imposed arbitration on the teachers that saw many of them teaching an extra period.

Leaving this power in the hands of the minister to use means that in the event teachers decide they might be angry on another day, when you decide you will impose another arbitrator on some other board, and the teachers decide, "We're going to work to rule; we simply won't do it any more," you have the power through the amendment you're making to impose this law on those teachers so they will be forced to do the extracurricular activities.

I think it's wrong; I think it's bad. It's an unnecessary attack on the teachers, it really is. You know that. The thing is, your minister knows that. You all know it. Some of you pretended in the hearings that you were concerned about some of the opinions that were given, many of them by teachers and the parents of students, but I don't think you really give a damn, and I'll tell you why. I believe that you believe a lot of people out there support you on the basis that teachers are underworked and overpaid. What you would have forced on them was extracurricular time, from being volunteer to being mandated, as a way of feeding on the perception that teachers are simply not working hard enough. This not only applies to the fact that they're volunteering the extra time and you were going to force them, but it also applies to the fact that you're going to force them to teach an extra period.

You're operating on the basis that the public will buy into what you're feeding them, that teachers are underworked and overpaid. I think that's politically nefarious. I believe you all know that. The reason you had only two hours in Barrie and one whole day in Ottawa was because you knew that if you gave people more time, they would have more time to organize information hearings where people, in listening to each other, would understand that there's a problem here, that there's

something very political going on that has nothing to do with the quality of education.

How does forcing teachers or threatening them with imposing on them mandated extracurricular time help with the quality of education? It doesn't. In fact I argue, and many argued, that there's the potential for losing our extracurricular activities, because you can't force people to do what they did voluntarily before. If you say, "You, Mr Marchese, are now required to coach football," but I have no love for football and I don't even know how to coach, I might decide, "OK, I'll go on the field and I'll coach the football team," but if the students know there's a coach who is not there for the love of it or who doesn't have the knowledge, the sport dies. It applies to everything we do, from theatre after school to chess to any activity they do at the moment.

Do you understand, Joe? Do you understand the problem we're having here?

**Mr Tascona:** I'm listening very closely.

**Mr Marchese:** I know you are.

**The Vice-Chair:** Mr Marchese, it's now 4:30.

**Mr Marchese:** I realize that.

**The Vice-Chair:** I apologize but I have to interrupt the proceedings.

**Mr Marchese:** But you can't do that, Mr DeFaria.

**The Vice-Chair:** I'll have to put—

**Mr Marchese:** You can't do that, because I'm not done. That's the way it works.

**The Vice-Chair:** I apologize, but I can.

**Mr Marchese:** No, Mr Chair, you can't.

**The Vice-Chair:** I will proceed now to put the questions on the remaining sections.

**Mr Marchese:** Mr DeFaria, would you please check with the clerk to get some advice before you do that, because I don't think you should—

**The Vice-Chair:** I will if you wish.

It's 4:30, and pursuant to the standing orders I can do that.

**Mr Marchese:** Mr DeFaria, could I ask the clerk to say out loud what she said to you, so we can hear her opinion?

**Clerk of the Committee (Ms Susan Sourial):** At 4:30 the Chair can put the questions, and all debate is to stop at 4:30. There's no more debate at 4:30.

**The Vice-Chair:** I will now proceed to put every question necessary to dispose of all the remaining sections of the bill and the amendments.

**Mr Kennedy:** You have a choice, Mr Chair, to put a different interpretation—

*Interjections.*

**The Vice-Chair:** Order, please. Shall section 1, as amended, carry?

Since there was a request for a recorded vote, I'll defer voting on that section.

**Mr Tascona:** We could vote on the section.

**The Vice-Chair:** We'll defer the vote to the end.

**Mr Tascona:** OK.

**The Vice-Chair:** Section 2: There is a government motion to amend it, number 3, so the vote is deferred again.

**Mrs Brenda Elliott (Guelph-Wellington):** Excuse me, Mr Chair: Do we not vote on each particular section? The reading of the motion is dismissed, but we do need to vote on each particular one, do we not? Otherwise we have a slight problem because we have government and opposition amendments—a serious problem, actually.

**The Vice-Chair:** The clerk just advised me that because there is a request for recorded votes on all the amendments and sections, we will go through all the motions for amendments and then at the end we'll take a vote.

**Mrs Elliott:** On the section as a whole?

**The Vice-Chair:** On each amendment and on the section.

**Mrs Elliott:** I hear what you're saying; I don't understand it.

*Interjections.*

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** There's only one 20-minute recess in the standing orders.

**The Vice-Chair:** I'll proceed with government motion number 3.

*Interjections.*

**Mr Beaubien:** It says in the standing orders one 20-minute recess.

*Interjections.*

1630

**The Vice-Chair:** Let's just go back.  
Shall section 1, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac, Marchese.

**The Vice-Chair:** Carried.

Shall government motion number 3 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac, Marchese.

**The Vice-Chair:** Carried.

**Mr Marchese:** I'm sorry. Don't they have to be read into the record?

**The Vice-Chair:** No, they are deemed to have been read and they are deemed to be put.

Liberal motion number 4—I apologize.

Shall section 2, as amended, carry?



**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac, Marchese.

**The Vice-Chair:** Carried.

**Mr Kormos:** On a point of order, Chair: I'm reading the time allocation motion very carefully, as you did: "Any division required shall be deferred until all remaining questions have been put." So you can't have a recorded vote until all the questions have been put, because the deferral of the recorded vote has to happen after all remaining questions have been taken in succession. With respect, I don't want you to foul this up so badly that the vote is invalid. I'm just trying to be helpful to the government members. As I say, you know that the time allocation motion rules have to be interpreted strictly and very literally. "Put every question necessary ... Any division required shall be deferred until all remaining questions have been put."

I think you've screwed up the first three or four votes already. You might have to put them again. They're illegal.

**Mr Beaubien:** To be fair, I will request a five-minute recess so that I'm able to make sure the opposition is very satisfied that the process is fair and democratic.

**Mr Kennedy:** No, it's too late. You won't find that will make this process fair and democratic, that's for sure.

**Mr Beaubien:** I'm just requesting a five-minute recess.

**Mr Kennedy:** I'd like to speak in support. I appealed to you at the beginning to protect our rights in this committee by taking an interpretation of that motion. Strict it will be, then, Mr Chair. It certainly does say that the votes be put in oral fashion and then and only then division takes place. We are then obliged to do it in that fashion. I would hope that the Chair would not show favouritism or otherwise differently interpret. He would not interpret in a way that I think was permissible. But I certainly would support the idea that these votes need to be done in the way required in that particular motion, as odious as that motion is.

**The Vice-Chair:** Mr Kennedy, the problem is that Mr Marchese had requested originally to have a recorded vote on all sections and amendments, and everybody agreed at that time.

**Mr Kormos:** You can't start tampering with the motion.

**Mr Kennedy:** Mr Chair, I don't think you'll find that there's a unanimous or any other recorded—

**The Vice-Chair:** I'll have—

**Mr Kennedy:** It says, "Any division required shall be deferred," Mr Chair.

**The Vice-Chair:** I'm going to call a recess of five minutes to consult the rules and we'll come back in five minutes.

*The committee recessed from 1637 to 1644.*

**The Vice-Chair:** We'll proceed as the members have requested. We'll go through each section and then come back to them, with the vote deferred at that time.

**Mr Kennedy:** Just for the benefit of Hansard, Mr Chair, it was suggested by one of the government members opposite that our break was going to ensure that the democratic process and the rights of the opposition were respected. I'm sure it's an oversight, but there was no communication to date with us around what would be acceptable or how we would preserve those rights, and I wouldn't want anyone in Hansard to misconstrue otherwise.

**The Vice-Chair:** That's fair, Mr Kennedy. I am advised by the clerk that we can proceed as Mr Marchese indicated and, subject to your comments, I'll allow each side to have comments on it. What I plan to do is go through each section and deal with each amendment and defer the vote until when we go through all the sections. At that time, we'll go back again to the sections and take a recorded vote.

Do you have any comments? Mr Kennedy first. Do you understand?

**Mr Kennedy:** I understand what you're proposing. I would ask for a moment to loan the third party our copy of the resolution.

I would ask for your strict reliance neither in favour of one party nor another here on this resolution. I had asked previously for an interpretation of this resolution which would, as I understand the role of Chair, allow you to provide for the biases which you are to have, which are for continuity and the status quo, which is to allow things to be debated in the absence of other factors. You have made a narrow interpretation of this which I think is itself problematic.

However, a strictly narrow interpretation of the provisions that we are governed by is, "Any division required shall be deferred until all remaining questions have been put," not those having to do with a certain section. So I have to say that I object that we're interpreting what may be simply the convenience of government members to be able to follow amendments. I don't believe that is what our orders are here today. Therefore, I object to your ruling unless it basically follows precisely the requirement that we have under these very draconian and I think wholly regrettable motions.

The only reference I can find—and I would be happy to be persuaded by your reading of this—says, again, for clarity's sake, "any division required." I see nothing that modifies this particular arrangement. It says, "Any division required shall be deferred until all remaining questions have been put and taken in succession," and we're only allowed one 20-minute waiting period, so it's clear that the drafters of this motion, who have put us in this undemocratic position, want us to consider them all together.

That may be convenient for the government caucus or whatever, but I do not think that the proposal—Mr Chair, with all due respect, and I certainly mean nothing else by it, I don't think that we are in a position to modify this without the appearance of bias.

**The Vice-Chair:** Thank you, Mr Kennedy. Mr Marchese.

**Mr Marchese:** What I really would have liked are more days of hearings to allow the public to—

**The Vice-Chair:** Mr Marchese—

**Mr Marchese:** I'm going to help you.

**The Vice-Chair:** I want to deal with this issue.

**Mr Marchese:** I'm going to be very brief.

**The Vice-Chair:** Otherwise I'm going to have to step in.

**Mr Marchese:** If you do that, it won't be helpful. I'm trying to be helpful, and it will come.

The point is that the public really needed many more days to be heard: teachers, students and parents. My fight is not with you individually; it's with your government and with your minister in terms of this bill and the effects it will have on the educational system. My motion simply will slow you down a bit, but not much. It will irritate and slow you down a bit, so it doesn't accomplish what I really want in the end, and that is to hold you and your government much more accountable. For that we need more days than just to irritate you somewhat for the rest of this afternoon.

To be helpful, I'm going to withdraw my motion that we vote on every item on a recorded vote. We'll have the opportunity at the end to record our opposition to the entire bill. I withdraw that motion that we vote on each item on a recorded vote separately. I think that will help you, right?

**The Vice-Chair:** Thank you, Mr Marchese. Mr Kennedy.

**Mr Kennedy:** Just a small point of order: I appreciate the point raised originally by the third party and now the change of view of the third party, but I would put forward that under your orders of the day, government notice of motion number 51, this is the only consideration. So it means basically we will look at each amendment twice. That's the only consideration that our party will get.

We did put amendments forward to demonstrate whether or not there is fairness on the part of the government, and our only consideration for that will be if they are gone through in this fashion.

**The Vice-Chair:** Thank you, Mr Kennedy. I'm going to be proceeding then. As I indicated, I am going to proceed with the voting on it and will defer the vote because originally there was a request for a deferred vote, and it seems that either one or both sides of the opposition want to go through this twice.

1650

Shall section 1, as amended, carry? Deferred vote because there was a request for a recorded vote.

Shall motion number 3 carry? There was a request for a recorded vote, so we'll come back to that. That's deferred.

Going to section 3, the motion to amend number 5, shall—

**Mrs Elliott:** Mr Chair, if I may?

**Mr Marchese:** What page are we on?

**The Vice-Chair:** There is a Liberal motion. No, that's information, for information, so that's not a motion.

Government motion number 5: Shall it carry? Deferred.

**Mr Kennedy:** Mr Chair, just as a very quick point of order: You're referring to numbering. May I ask where that numbering is expressed on the page?

**The Vice-Chair:** Yes, that's what I'm referring to.

**Mr Kennedy:** You're referring to the page numbering?

**The Vice-Chair:** The page numbering, yes.

**Mr Kennedy:** And so that refers to the motion, and then the subsequent pages, because there isn't one for the Liberal—you mentioned that there was a Liberal information for committee to vote against section 3. There's no page number indicated there.

**The Vice-Chair:** That was just for information for the committee.

**Mr Kennedy:** Yes, but in terms of our being able to follow you, because you are about to go through in rapid succession, you have page numbers. There is page number 4 there, but the further pagination says, government motion, page 4(a), (b), (c). I thought that number 5 there, for example, referred to government motion number 5(a), (b), and (c), and yet if you look at the previous page, it's a Liberal motion and it's—I just want to make sure we're on one pagination, because I don't want to lose the opportunity to either move motions or object to motions in a proper fashion.

**The Vice-Chair:** That's why I started mentioning whether it's a Liberal motion or a government motion and so on.

**Mrs Elliott:** Could you also mention the section so we know when we're through that section, if that whole section is to be carried, please?

**The Vice-Chair:** So we'll proceed.

On government motion number 5 there is a request for a recorded vote, so we'll defer the vote.

On Liberal motion number 6, subsection 3(2), there is a request for a recorded vote, so we'll defer the vote.

Government motion number 7, section 4 of the bill—

**Mrs Elliott:** Excuse me. We're deferring the recorded vote, are we not? Do we not have to vote on each section?

**The Vice-Chair:** We're just going to defer the votes and then vote on it. There is no point in voting on it twice.

**Mr Kennedy:** With due respect, Mr Chair, it does presume that there isn't any concurrence on any side, and I think to presuppose the vote is not to take it at all. So I do think we need to vote on each motion, and I do believe, again, that's strictly in keeping with what we're here for.

**The Vice-Chair:** I'm informed by the clerk that the proper way of doing it is just by—since there was a



request for a recorded vote—deferring all the votes until the end.

**Mr Tascona:** What are we doing right now?

**Mr Kennedy:** I don't understand. What is the purpose?

**The Vice-Chair:** I'm sorry. I'm not going to interrupt reading any more. I'm informed by two clerks that that's the proper way of doing it.

I'm now at government motion number 7. There has been a request for a recorded vote, so it's deferred.

Liberal motion number 8: There has been a request for a recorded vote, so it's deferred.

Liberal motion number 9: There has been a request for a recorded vote, so it's deferred.

Government motion number 10: There has been a request for a recorded vote, so it's deferred.

Government motion number 11: There has been a request for a recorded vote, so it's deferred.

Page 12 is not a motion; it's just for information. So that's not part of the motions.

**Mr Kennedy:** That's the recommendation to vote against section 7, so that comes out?

**The Vice-Chair:** That's correct.

Government motion number 13: There has been a request for a recorded vote, so it's deferred.

Government motion number 14: There has been a request for a recorded vote, so it's deferred.

Liberal motion number 15: There has been a request for a recorded vote, so it's deferred.

Liberal motion number 16: There has been a request for a recorded vote, so it's deferred.

Liberal motion number 17: There has been a request for a recorded vote, so it's deferred.

Section 8: There has been a request for a recorded vote, so it's deferred.

Section 9: There has been a request for a recorded vote, so it's deferred.

**Mrs Elliott:** Is that 8 or 18?

**The Vice-Chair:** It's 8. We're talking now about sections of the act that don't have amendments.

**Mrs Elliott:** Oh, I've got you. All right.

**The Vice-Chair:** Section 9: There has been a request for a recorded vote, so it's deferred.

Section 10: There has been a request for a recorded vote, so it's deferred.

Section 11: There has been a request for a recorded vote, so it's deferred.

Section 12: There has been a request for a recorded vote, so it's deferred.

Section 13: There has been a request for a recorded vote, so it's deferred.

Section 14: There has been a request for a recorded vote, so it's deferred.

Section 15: There has been a request for a recorded vote, so it's deferred.

Section 16: There has been a request for a recorded vote, so it's deferred.

Section 17, government motion, page 18: There has been a request for a recorded vote, so it's deferred.

Government motion number 19: There has been a request for a recorded vote, so it's deferred.

Section 19—again that's the section, not the motion: There has been a request for a recorded vote, so it's deferred.

Section 20, government motion number 20: There has been a request for a recorded vote, so it's deferred.

Government motion number 21: There has been a request for a recorded vote, so it's deferred.

Section 21: There has been a request for a recorded vote, so it's deferred.

Section 22, government motion number 22: There has been a request for a recorded vote, so it's deferred.

Government motion number 23: There has been a request for a recorded vote, so it's deferred.

Government motion number 24: There has been a request for a recorded vote, so it's deferred.

**1700**

Section 24, government motion number 25: There has been a request for a recorded vote, so it's deferred.

Liberal motion number 26: There has been a request for a recorded vote, so it's deferred.

Section 25—now we're going back to the section: That has been a request for a recorded vote, so it's deferred.

We'll go back now and take recorded votes on the sections and the amendments.

**Mr Kennedy:** Chair, before you do that, I wonder if I could ask for a brief recess. It looks like there's a Liberal amendment missing and I just want to make sure that isn't the case. I wonder if I could have the support of the committee to reconcile that, just as the government side did for their procedural requirements.

**The Vice-Chair:** How long do you need?

**Mr Kennedy:** Five minutes.

**The Vice-Chair:** We'll have a five-minute recess.

*The committee recessed from 1701 to 1708.*

**The Vice-Chair:** I call the committee to order. I will proceed then with the recorded vote and I'd like to call section 1. Shall section 1, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

We are now on government motion number 3. Shall government motion number 3 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 2, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

We are now on government motion number 5. Shall government motion number 5 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

1710

The next motion is Liberal motion number 6. Shall Liberal motion number 6 carry?

**Ayes**

Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** Defeated.

Shall section 3, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

We are now on section 4, government motion number 7. Shall government motion number 7 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Liberal motion number 8. Shall Liberal motion number 8 carry?

**Ayes**

Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** The motion is lost.

Shall section 4, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

We are now on section 5. There are no amendments to section 5. Shall section 5 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 6, Liberal motion number 9. Shall Liberal motion number 9 carry?

**Ayes**

Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** Liberal motion number 9 is defeated.

Government motion number 10. Shall government motion number 10 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Government motion number 11. Shall government motion number 11 carry?



**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 6, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

We are now on section 7, government motion number 13. Shall government motion number 13 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Government motion number 14. Shall government motion number 14 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Liberal motion number 15. Shall Liberal motion number 15 carry?

**Ayes**

Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** The motion is lost.

Liberal motion number 16. Shall Liberal motion number 16 carry?

**Ayes**

Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** The motion is lost.

We are now on Liberal motion number 17. Shall Liberal motion number 17 carry?

**Ayes**

Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** The motion is lost.

Shall section 7, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 8 has no amendments. Shall section 8 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 9 has no amendments. Shall section 9 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

**Mr Beaubien:** Mr Chair, since there are no amendments from sections 9 to 17, can we collapse those sections?

**The Vice-Chair:** Usually we could, but since there was a request for a recorded vote, I think we better proceed with it.

Section 10 has no amendments. Shall section 10 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 11 has no amendments. Shall section 11 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 12 has no amendments. Shall section 12 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 13 has no amendments. Shall section 13 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 14 has no amendments. Shall section 14 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 15 has no amendments. Shall section 15 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 16 has no amendments. Shall section 16 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

There is an amendment to section 17, government motion number 18. Shall government motion number 18 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 17, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 18, government motion number 19. Shall government motion number 19 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 18, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 19 has no amendments. Shall section 19 carry?



**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 20 has an amendment, government motion number 20. Shall government motion number 20 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Government motion number 21. Shall government motion number 21 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 20, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 21 has no amendments. Shall section 21 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 22, government motion number 22. Shall government motion number 22 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall government motion number 23 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 22, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 23, government motion number 24. Shall government motion number 24 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 23, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Section 24, government motion number 25. Shall government motion number 25 carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Liberal motion number 26. Shall Liberal motion number 26 carry?

**Ayes**

Bisson, Kennedy, Levac.

**Nays**

Beaubien, Coburn, Elliott, Tascona.

**The Vice-Chair:** The motion is lost.

Shall section 24, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall section 25, the short title of the bill, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall the long title of the bill carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall Bill 74, as amended, carry?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried.

Shall Bill 74 be reported to the House?

**Ayes**

Beaubien, Coburn, Elliott, Tascona.

**Nays**

Bisson, Kennedy, Levac.

**The Vice-Chair:** Carried. Thank you very much.

**Mr Kennedy:** Mr Vice-Chair, on a point of order—

**The Vice-Chair:** I don't think we can have points of order at this time.

**Mr Kennedy:** A point of order is always in order.

**The Vice-Chair:** We have completed the bill, as indicated. If someone has a short comment, I will hear the comment.

**Mr Kennedy:** For the purposes of the record and in reference to an earlier point of order, I had asked for a more generous interpretation of the time we had to actually consider the amendments. It's only 20 minutes after 5 o'clock. We would have had time to do so, and I regret very much your ruling and the nature of the business that we have here today that in fact has curtailed debate of this discussion. I believe it is a point of order and I respectfully ask for it to be heard, because the only way that a minority point of view here can be heard is in raising points of order.

**The Vice-Chair:** Mr Kennedy, I don't think you can have a point of order on a bill that has already been approved to be reported to the House.

**Mr Kennedy:** As long as the committee is in session I am permitted to question—it is my right—the process of this committee. I have made a comment that I think is appropriate in terms of the rulings of the Chair, and those may have precedent for future chairs in a similar position. The only point I wish to make is that the opposition has missed out on about 40 minutes of time it could have used to examine it still more fully.

**Mr Levac:** Will the bill be submitted to the Red Tape Commission?

**The Vice-Chair:** The bill will be submitted to the House, I understand, tomorrow.

**Mr Levac:** My question is, does it get referred to the Red Tape Commission?

**The Vice-Chair:** Not that I know of.

The committee is adjourned.

*The committee adjourned at 1725.*



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